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Vol. 49 No. 71
Pages 14291-14494

Selected Subjects

Wednesday
April 11, 1984

Selected Subjects

Administrative Practice and Procedure
Postal Rate Commission

Air Carriers
Civil Aeronautics Board

Air Pollution Control
Environmental Protection Agency

Electric Utilities
Federal Energy Regulatory Commission

Endangered and Threatened Species
Fish and Wildlife Service

Fisheries
National Oceanic and Atmospheric Administration

Food Labeling
Food and Drug Administration

Hazardous Materials Transportation
Research and Special Programs Administration

Hazardous Waste
Environmental Protection Agency

Labeling
Food and Drug Administration

Loan Programs
Housing and Urban Development Department

Manufactured Homes
Housing and Urban Development Department

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Agricultural Marketing Service

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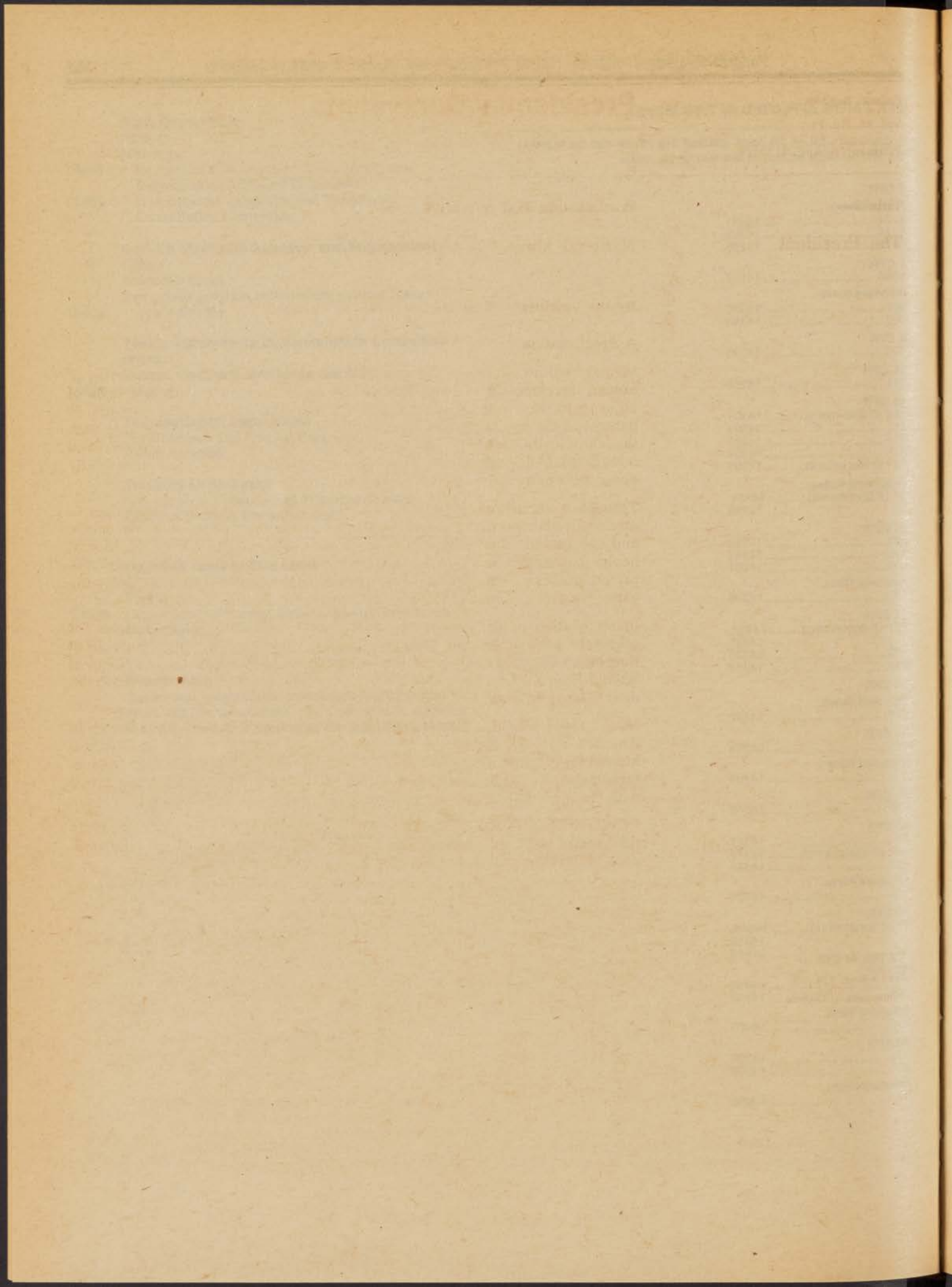
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Title 3—

Proclamation 5174 of April 8, 1984

The President

National Mental Health Counselors Week, 1984

By the President of the United States of America

A Proclamation

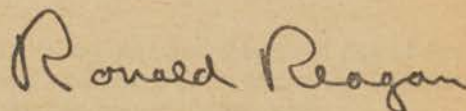
Mental health counselors use special counseling skills and understanding of human development to help their fellow Americans cope with problems of adjustment, the pain of illness, and the stresses of life. They provide 50 percent of the mental health services delivered in this country, working with the chronically mentally ill, the depressed, the anxious, the abused, and others, who, through no fault of their own, cannot fully meet their daily obligations or experience life's pleasures.

Through a variety of techniques, mental health counselors assist people to attain self-understanding and skills needed to solve problems, make decisions, and successfully deal with others in an increasingly complex world. Mental health counselors work in hospitals, community agencies, clinics, and the private practice sector and with all types of health professionals, applying the expertise gained through their many years of education and training.

In recognition of the important services that these counselors perform for others to save lives and reduce suffering, the Congress, by Senate Joint Resolution 203, has designated the week beginning April 8, 1984, as National Mental Health Counselors Week and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 8, 1984, as National Mental Health Counselors Week. I call upon health care professionals, educators, the media, individuals, and public and private organizations concerned with mental health to observe this week with appropriate ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of April, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.



STATEMENT OF ACCOUNTS

For the year ending 31st March 1891

By the Board of Directors

At the meeting of the Board of Directors held on the 15th March 1891

Present

The following statement of accounts for the year ending 31st March 1891, has been submitted to the Board of Directors for their consideration and approval. The statement shows a balance of £100,000 at the beginning of the year, and a profit of £5,000 at the end of the year. The profit is made up of the following items:—

Interest on loans £1,000
Dividends £2,000
Sale of property £1,000
Other income £1,000
Total £5,000

The Board of Directors have considered the statement and have approved it. They have also resolved to pay a dividend of 5% on the capital of £100,000, which will amount to £5,000.

The Board of Directors have also resolved to pay the interest on the loans at the rate of 5% per annum.

The Board of Directors have also resolved to pay the salaries of the officers and employees at the rates fixed by the Board of Directors in the year 1890.

The Board of Directors have also resolved to pay the expenses of the Board of Directors at the rates fixed by the Board of Directors in the year 1890.

The Board of Directors have also resolved to pay the expenses of the officers and employees at the rates fixed by the Board of Directors in the year 1890.

The Board of Directors have also resolved to pay the expenses of the Board of Directors at the rates fixed by the Board of Directors in the year 1890.

The Board of Directors have also resolved to pay the expenses of the officers and employees at the rates fixed by the Board of Directors in the year 1890.

Presidential Documents

Proclamation 5175 of April 9, 1984

Law Day U.S.A., 1984

By the President of the United States of America

A Proclamation

May 1, 1984 is Law Day U.S.A., a time to affirm the essential role of the rule of law in the development and preservation of our free society.

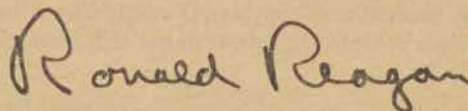
This year's Law Day theme, "Law Makes Freedom Work," captures the essence of our heritage as a Republic. Our unique experience demonstrates that law and freedom must be indivisible partners. For without law, there can be no freedom, only chaos and disorder; and without freedom, law is but a cynical veneer for injustice and oppression.

The guarantees of freedom embodied in our Constitution and the Bill of Rights are a continuing legacy, enhancing the lives of our citizens and serving as an inspiration to people around the world. One of our Nation's strongest principles is that voluntary adherence to the rule of law expands, rather than limits, the opportunities for freedom.

For twenty-seven years, we have set aside this day as a time for reflection upon and celebration of the vital bond between liberty and the rule of law that gives life to our national goals and ideals. It is also an opportunity for all Americans to improve their understanding and appreciation of the contribution law makes to the preservation of freedom.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in accordance with Public Law 87-20 of April 7, 1961, do hereby proclaim Tuesday, May 1, 1984 as Law Day U.S.A. I urge the people of the United States to use this occasion to renew their commitment to the rule of law and to reaffirm our dedication to the partnership of law and liberty. I also urge the legal profession, schools, civic, service and fraternal organizations, public bodies, libraries, the courts, the communications media, business, the clergy, and all interested individuals and organizations to join in efforts to focus attention on the need for the rule of law. I also call upon all public officials to display the flag of the United States on all government buildings open on Law Day, May 1, 1984.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of April, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.



[FR Doc. 84-9912

Filed 4-10-84; 10:58 am]

Billing code 3195-01-M

Editorial note: For the President's remarks of Apr. 9, 1984, on signing Proclamation 5175, see the *Weekly Compilation of Presidential Documents* (vol. 20, no. 15).

Presidential Documents

Proclamation 5176 of April 9, 1984

Parkinson's Disease Awareness Week, 1984

By the President of the United States of America

A Proclamation

For most of us, movement is part of our lives which, though essential, we often take for granted. But for nearly half a million Americans, every step, every gesture is fraught with apprehension. These people suffer from Parkinson's disease, a movement disorder that affects people as they grow older.

We now know that the tremor and rigidity characteristic of Parkinson's disease are caused by a chemical deficiency in the part of the brain that controls movement. Through research, scientists have discovered that certain drugs can help overcome this deficiency. Many Americans with Parkinson's disease have found that with medication, physical therapy, and emotional support from families and friends, they can lead normal and productive lives.

Superbly trained scientists are hard at work trying to solve the problems caused by Parkinson's disease. Many of these scientists are supported by the Federal government's National Institute of Neurological and Communicative Disorders and Stroke and by four national voluntary health organizations: the American Parkinson Disease Association, the National Parkinson Foundation, Inc., the Parkinson's Disease Foundation, and the United Parkinson Foundation.

While these medical advances are encouraging, it is important that there be greater public awareness of what it means to have Parkinson's disease. We must let people with Parkinson's disease know that we understand when they have trouble walking through a doorway or when the disorder causes their hands or their heads to shake uncontrollably. A smile may be all the encouragement they need to relax enough to resume normal movement. I commend the courage of Americans who refuse to be vanquished by Parkinson's disease. And I applaud the resourcefulness of the families and friends who provide them with sustained affection and encouragement.

The Congress, by Senate Joint Resolution 263, has designated the week of April 8-14, 1984, as "Parkinson's Disease Awareness Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of April 8-14, 1984, as "Parkinson's Disease Awareness Week," and I call upon Government agencies and the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of April, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-9913

Filed 4-10-84; 10:59 am]

Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 49, No. 71

Wednesday, April 11, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1036

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Order Terminating Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of rules.

SUMMARY: This action terminates the seasonal incentive producer payment plan (take-out/pay-back plan) provisions of the Eastern Ohio-Western Pennsylvania milk order. The plan was designed to encourage dairy farmers to produce about the same amount of milk each month. Suspension of the plan for 1984 was requested by Milk Marketing, Inc., a cooperative association representing a substantial number of the producers supplying the market. The comments received in response to a Notice of Proposed Suspension or Termination indicate that the plan no longer effectively serves its intended purpose. That situation is not expected to change in the near future.

Accordingly, termination of the payment plan provisions is more appropriate than a suspension and is needed to maintain an appropriate alignment of producer prices with a neighboring market.

EFFECTIVE DATE: April 11, 1984.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of

Proposed Suspension or Termination, issued February 24, 1984; published March 1, 1984 (49 FR 7571).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action will lessen the regulatory impact of the order on dairy farmers and will not affect milk handlers.

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

Notice of proposed rulemaking was published in the *Federal Register* on March 1, 1984 (49 FR 7571) concerning a proposed suspension or termination of the seasonal payment plan provisions of the order. Interested persons were afforded an opportunity to file written data, views, and arguments thereon by March 16, 1984. Two cooperatives, representing a significant portion of the producers supplying the market, favor termination of the plan.

After consideration of all relevant information, including the proposal in the notice, the comments received in response to the notice, and other available data, it is hereby found and determined that the following provisions of the order no longer tend to effectuate the declared policy of the Act:

1. In § 1036.61, paragraph (f), the words "For the months of January through March and August,"; and all of paragraphs (g) through (l).

2. In § 1036.70, all of paragraph (b).

Statement of Consideration

This action removes the seasonal producer payment plan (take-out/pay-back) provisions from the Eastern Ohio-Western Pennsylvania order. Under those provisions, 25 cents per hundredweight of producer milk is deducted from the pool value of milk in computing the uniform prices to pay producers for their milk deliveries during the months of April through July. The monies withheld plus accrued interest are added to the pool funds in computing the uniform prices to pay producers for their milk deliveries in the following months of September through

December. The plan was designed to encourage dairy farmers to produce about the same amount of milk each month.

Suspension of the seasonal payment plan's operation for 1984 was requested by Milk Marketing, Inc. (MMI), a cooperative association representing a substantial number of the producers supplying the market.

In the notice of proposed action, it was pointed out that the seasonal payment plan had been suspended from operation last year. The 1983 suspension and the proposal to suspend it again this year raised the question about whether the plan might more appropriately be terminated. Interested parties were therefore invited to comment on whether the plan should be suspended for another year or terminated.

In response to that invitation, comments were received from five individuals and two cooperatives. Two individuals opposed termination. Another suggested that the plan be suspended for 1984 rather than terminated. One other person indicated a preference for increasing the withholding rate rather than suspending or terminating the plan.

The two cooperatives, including the association (MMI) that initiated this action, and one individual dairy farmer favored termination of the seasonal payment plan. The two producer groups represent a significant portion of the producers supplying the market. Since this is strictly a producer issue in that it establishes how the pool proceeds are distributed to producers, the wishes of producers must be the overriding consideration. Solely on that basis, the seasonal plan most appropriately should be terminated.

However, this action is also warranted because the take-out/pay-back plan no longer provides an adequate incentive for producers to incur the extra costs of altering their production patterns whereby they produce about the same amount of milk each month. The 25-cent withholding rate, which has been effective since the plan was adopted in 1970, now represents less than 2 percent of the uniform price paid to producers under the Eastern Ohio-Western Pennsylvania order. That amount is too low relative to producer pay-prices today to effectively encourage producers to level their milk production.

In addition, the action is needed to maintain the alignment of producer pay-prices with the adjacent Ohio Valley market. The seasonal payment plan of that order was terminated on February 29, 1984. Producers shipping to handlers regulated by the Eastern Ohio-Western Pennsylvania and Ohio Valley orders are intermingled in some procurement areas. Unless the seasonal plan for this market is suspended or terminated, a misalignment of prices paid to producers supplying the two markets could result in disorderly marketing as producers attempt to shift from market to market for temporary monetary gains.

The termination action, taken herein, is more appropriate than a suspension because the reasons for such action can no longer be considered temporary. Accordingly, the payment plan provisions should be and hereby are terminated.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) Termination of the provisions is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that the program no longer achieves its intended purpose;

(b) Termination of the provisions does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given to interested parties and they were afforded an opportunity to file written data, views, or arguments concerning this action. A significant portion of the producers supplying this market now favor termination of the payment plan.

Therefore, good cause exists for terminating the aforesaid provisions of the Eastern Ohio-Western Pennsylvania order effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 1036

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That in § 1036.61, paragraph (f), the words "For the months of January through March and August," and all of paragraphs (g) through (l), and in § 1036.70, all of paragraph (b) are hereby terminated.

Effective Date: April 11, 1984.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Signed at Washington, D.C., on: April 5, 1984.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection.

FR Doc. 84-9665 Filed 4-10-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

Statement of Organization; Field Service Realignment

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule realigns the operational jurisdiction of the Hong Kong, B.C.C. and Rome, Italy district offices. These changes are made to bring the operational jurisdiction in line with the principles of good management.

EFFECTIVE DATE: April 1, 1984.

FOR FURTHER INFORMATION CONTACT:

Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: With a view towards more efficient management, the Service is realigning the jurisdictional boundaries of its Hong Kong, B.C.C. and Rome, Italy district offices by transferring the jurisdictional responsibility for Pakistan and India from Hong Kong to Rome.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this rule relates to agency management.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

This order is not a rule within the definition of section 1(a) of E.O. 12291 because it relates solely to agency management.

List of Subjects in 8 CFR Part 100

Administrative practice and procedure, Organization and functions (government agencies).

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

In § 100.4, paragraphs (b) (33) and (37) are revised to read as follows:

§ 100.4 Field service

(b) * * *

33. *Hong Kong, B.C.C.* The district office in Hong Kong has jurisdiction over the British Crown Colony, and adjacent islands, Formosa, the Philippines, Australia, New Zealand; all of continental Asia lying to the east of the western border of Afghanistan and eastern borders of Pakistan and India; Japan, Korea, Okinawa and all other countries in the Pacific area.

37. *Rome, Italy.* The district office in Rome, Italy has jurisdiction over Europe; Africa; the countries of Asia lying to the west and north of the western and northern borders, respectively, of Afghanistan, People's Republic of China and Mongolian People's Republic; plus the countries of India and Pakistan.

(Sec. 103, Immigration and Nationality Act, as amended (8 U.S.C. 1103))

Dated: April 4, 1984.

Doris M. Meissner,

Executive Associate Commissioner, Immigration and Naturalization Service.

[FR Doc. 84-9666 Filed 4-10-84; 8:45 am]

BILLING CODE 4410-10-M

CIVIL AERONAUTICS BOARD

14 CFR Part 241

[Economic Reg. Amdt. No. 52 to Part 241; Docket 41608; Reg. ER-1379]

Uniform System of Accounts and Reports for Certificated Air Carriers; Passenger Origin and Destination Survey Reports

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB reduces the number of fare basis codes required to be filed in the Passenger Origin and Destination Survey Report and retains the Origin and Destination Survey for transfer to DOT at sunset. These actions reduce burden and assure the availability of data until sunset of the Board.

DATES: Adopted: March 20, 1984. Effective: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Jack Calloway, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut

Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking, the Board proposed to allow carriers to report a reduced number of fare basis codes in the Passenger Origin-Destination (O&D) Survey¹ and to extend the expiration date of the O&D Survey from January 1, 1984, to January 1, 1985 (EDR-464, 48 FR 36598, August 12, 1983).

Fourteen comments, including two reply comments, were received in response to the rulemaking notice.^{1*} The reply comments were filed by the Hillsborough County Aviation Authority and Trans World Airlines, Inc. The majority of comments support the changes proposed in EDR-464, but several suggest modifications to or elimination of the O&D Survey. These comments are discussed below under separate captions.

Expiration Date of Passenger Origin-Destination Survey

The Board proposed to change the expiration date of the O&D Survey from January 1, 1984, to January 1, 1985. The additional year would be used to complete a more thorough examination of O&D reporting to decide the shape and form of the Survey to be transferred to the Department of Transportation (DOT) at the Board's sunset. We have decided to retain the O&D Survey and transfer it to DOT with only minor changes.

Delta, Northwest and USAir comments oppose extension of O&D Survey reporting until January 1, 1985. Delta and USAir argue that the data in the Survey are commercially sensitive and that the Board no longer has a regulatory need to collect the data. Northwest and USAir, on the other hand, state that if O&D data are needed to administer the essential air service program, the Board should require only those carriers serving essential air service points to file the data. USAir goes further by stating that it is inconsistent for the Board to eliminate O&D reporting for small air carriers that are frequently responsible for providing essential air service as proposed in EDR-465 (48 FR 36601, August 12, 1983)

¹ Filed as part of original document.

^{1*} Aerospace Industries Association of America, Inc. (AIA), Airport Operators Council International (AOCI), Boeing Commercial Airplane Company (Boeing), City of San Jose, California (San Jose), Continental Air Lines, Inc. (Continental), Delta Air Lines, Inc. (Delta), Department of Transportation (DOT), Douglas Aircraft Company (Douglas), Lehigh-Northampton Airport Authority (LNAA), Northwest Airlines, Inc. (Northwest), Office of Management and Budget (OMB) and U.S. Air, Inc. (USAir).

and at the same time base retention of O&D reporting on the needs of the essential air service program as proposed in EDR-464.

Other points presented in opposition to the proposal were USAir's belief that DOT would not be able to demonstrate the need to collect O&D data domestically after sunset and Delta's feeling that further study of the O&D Survey is unnecessary since the June 1982 staff study already provides a basis for elimination.

Based on the Board's need of O&D data for the essential air service and international programs, we have decided to retain the Survey. We are not establishing an expiration date of January 1, 1985, as proposed in EDR-464.

We are also establishing January 1, 1984, as the effective date for this rule. In making it effective retroactive to January 1, we are insuring that there is no break in the data needed for our regulatory programs.

We agree with Delta's contention that further study of the O&D Survey is not needed but for entirely different reasons. While Delta feels that further study is unnecessary because the June 1982 staff study provides the basis for elimination, the Board firmly believes that further study is not needed because of the Survey's usefulness to the international and essential air service programs. The June 1982 staff study recommended that O&D data be retained for international points and domestically for essential air service points only, even though most commenters, especially airport operators and aircraft manufacturers, advocated maintaining the status quo. The staff study was issued to solicit comments from users of the Board's data bases. Based on the comments received on the O&D recommendations, it is clear that the Survey should be retained, at least to support the essential air service and international programs.

The issues concerning the sensitivity of Survey data and the Board's regulatory need to collect the data were raised when the Board made participation in the Survey mandatory in ER-1201 (45 FR 67856, October 14, 1980). These arguments were answered at that time, and therefore will not be addressed in this rulemaking.

We also disagree with Northwest's and USAir's suggestion that the Board require O&D data only from those carriers serving EAS points. As EDR-464 points out, the Board needs O&D data for all markets of 500 miles or less. Without this information, the Board's staff would have no data with which to evaluate essential air service proposals

in markets of similar distance and traffic density or estimate yields by market in subsidy cases.

Concerning USAir's belief that the Board shows inconsistency by proposing to eliminate O&D reporting for small air carriers that provide essential air service in EDR-465, but basing extension of O&D reporting on the needs of the essential air service program, we see no inconsistency. While the small air carriers will not be filing in the O&D Survey, they will file O&D data via CAB Form 298-C Schedule T-1. This schedule is a 100 percent on-line origin and destination report rather than a 10 percent sample of tickets that is reported in the O&D Survey. Together the O&D Survey and 298-C, T-1 reports provide a comprehensive source of O&D data for the essential air service program.

With respect to USAir's statement that DOT will not be able to demonstrate the need to collect O&D data domestically after sunset, DOT is on record in Docket 40024² as needing O&D data to analyze traffic flows throughout the country. Furthermore, DOT requested that O&D data be continued in its present form for all points served until sunset, at which time it would reevaluate its needs in the post-sunset environment.

Total Dollar Value of Ticket (Fare Plus Tax)

The Board indicated in EDR-464 that dollar-value-of-ticket data is needed only for domestic markets of 500 miles or less. Limiting the data to that mileage limit was not proposed, however, since it was felt that it would be more burdensome to scan each Survey ticket coupon for mileage and international points than it would be to report dollar-value-of-ticket data for all Survey coupons. Instead, we requested comments on alternatives which would be cost effective to carriers with either manual or ADP O&D Survey collection systems.

No respondent submitted an alternative approach that would limit the data to markets of 500 miles or less. AIA, Continental and Douglas did, however, register their opposition to any change in the reporting of dollar-value-of-ticket data. AIA and Douglas desire dollar value data on all tickets because of its usefulness in tracking revenue and yields in specific markets. Continental objects to changing the data because of

² Comments filed in response to the Board study entitled "CAB Information Systems and Early Sunset" dated September 18, 1981.

its value in arriving at management decisions.

We have decided not to modify the reporting of dollar-value-of-ticket data in the O&D Survey. Our decision is based on the fact that the Board has found no workable method to distinguish domestic markets of 500 miles or less without causing an increase in burden to the carriers in providing these data.

Fare-Basis Codes

EDR-464 gave notice of the Board's intentions to reduce the number of fare categories it uses from 15 to six major categories; namely, first class, first class discounted, coach, coach discounted, other and unknown. Additionally, carriers would have the option of consolidating their fare basis codes into these six categories prior to submitting data to the Board.

Continental objected to reducing the number of fare basis codes because of their value to the company in making management decisions. While not opposing the reduction in fare basis codes, Northwest stated that the Board should go farther and eliminate fare codes entirely.

We have decided to reduce the number of fare basis categories from 15 to six major categories for publication and data base purposes and to give carriers the option of consolidating their fare codes into these six categories. To accomplish these changes, we are issuing simultaneously with this rule the attached Passenger Origin-Destination Directive.

We are not eliminating fare codes entirely, as Northwest suggests, because the Board needs the information provided by the six categories to carry out its regulatory functions until Sunset.

While Continental's statement that the fare basis codes are available to management, and thus should not be reduced has merit, the Board has no recourse but to eliminate those fare codes that it no longer needs. Section 1320.6 of the Paperwork Reduction Act prevents agencies from collecting information which is not necessary to satisfy statutory requirements or other substantial needs.

Comments of Office of Management and Budget

The collection of information requirements in EDR-464 were submitted to the Office of Management and Budget (OMB) for review. OMB reviewed the proposal under authority granted by the Paperwork Reduction Act of 1980 and 5 CFR Part 1320 and did not approve the changes contemplated in

EDR-464. Instead, OMB filed these comments.

First, OMB states that it agrees with EDR-464 and recommends its adoption as a final rule. However, OMB believes that the Board should go further by considering the complete elimination of the O&D Survey. Second, OMB requests that the Board address certain collection of information concerns in the final rule.

These concerns were directed at both EDR-465, Docket 41607, which is a proposal dealing with the reporting by commuter and small certificated air carriers, and EDR-464.

Our interpretation of OMB's concerns are: (1) Can O&D data needs be met by voluntary surveys, (2) do less burdensome alternatives exist for collecting O&D data, and (3) can the Board's informational needs be met without publicly disclosing O&D data to carrier competitors?

Prior to January 1, 1981, participation in the O&D Survey was voluntary. The Board, however, in ER-1201 required mandatory participation for carriers offering scheduled passenger service, because without total participation the Survey would lose its validity. In fact, several carriers at the time threatened to pull out of the Survey if it were not made mandatory for all carriers. We are certain that the situation faced before the issuance of ER-1201 would occur if we attempted to meet O&D needs through voluntary surveys. Recent experience shows that voluntary surveys do not work. As an example, the Board attempted to monitor the fitness of commuter air carriers through an arrangement with Dun & Bradstreet, whereby these commuter carriers would voluntarily supply limited financial data to Dun & Bradstreet for Board use. This arrangement was terminated because the majority of carriers would not respond to Dun & Bradstreet's inquiries on a voluntary basis.

With respect to less burdensome alternatives for collecting O&D data, we do not believe any exist. While airport surveys have been suggested as a less costly alternative, we feel that they simply transfer the reporting burden from the carriers to the airports and would produce less reliable results while inconveniencing a great number of travelers. Additionally, in the proposed rule which stated our desire to make O&D participation mandatory (EDR-392, 44 FR 67140, November 23, 1979), we explored the possibility of reducing the survey sample size from 10 percent to 5 or 1 percent. We also proposed to reduce the number of tickets for which the dollar value of ticket was to be reported and to reduce the sample size for this data element as well. Carrier

comments on the proposal overwhelmingly objected to these alternatives as being more burdensome than the current requirements.

We also rejected using data from the *Official Airline Guide* (OAG) and the Immigration and Naturalization Service (INS) to replace the O&D Survey as certain carrier responses suggested. OAD data was rejected because it shows where carriers provide service, not where passengers actually want to fly. INS data was eliminated from consideration on the basis that it shows traffic gateway-to-gateway which is too limited for Board needs.

Finally, we come to the question of public disclosure of O&D Survey data. International O&D Survey data are limited information that will only be disclosed under the circumstances listed in Section 19-7(d) ³ of Part 241. Domestic O&D data, on the other hand, are not limited information and are available to all parties. We do not feel that any carrier is placed at a competitive disadvantage since they all are required to report O&D data to the Board; thus, they all have access to each other's O&D information on an equal basis. In addition, the use of domestic O&D data has helped to foster competition between airlines as was envisioned by Congress in the Airline Deregulation Act of 1978.

³(d) Similar international Passenger Origin-Destination Survey data covering the operations of the non-U.S. carriers are not generally available to the Civil Aeronautics Board, the U.S. carriers, or U.S. interests. Therefore, because of the damaging competitive impact on U.S. flag carriers and the adverse effect upon the public interest that would result from unilateral disclosure of the U.S. survey data, the Civil Aeronautics Board has determined its policy to be that the international data in the Passenger Origin-Destination Survey shall be disclosed only as follows:

(1) To an air carrier directly participating in, and contributing input data to, the survey, or to a legal or consulting firm or other organization designated by an air carrier to use on its behalf O&D data in connection with a specific assignment by such carrier.

(2) To parties to any proceeding before the Board to the extent that such data are relevant and material to the issues in the proceeding upon a determination to this effect by the administrative law judge assigned to the case or by the Board. Any data to which access is granted pursuant to this section may be introduced into evidence subject to the normal rules of admissibility of evidence.

(3) To agencies and other components of the U.S. Government.

(4) To other persons upon a showing that the release of the data will service specifically identified needs of U.S. users which are consistent with U.S. interests.

(5) To foreign governments and foreign users as provided in formal reciprocal arrangements between the foreign and U.S. governments for the exchange of comparable O&D data.

Editorial Amendment

This rule amends paragraph (a) in Section 19-7 to reflect the organizational name change of the Data Systems Management Division, Office of Comptroller to the Information Management Division, Office of Comptroller.

Regulatory Flexibility Act

In EDR-464, the Board certified that none of the proposed changes would, if adopted, have a significant economic impact on a substantial number of small entities in accordance with 5 U.S.C. 605(b). The reason for the negative certification was that small airlines have been granted waivers from the O&D Survey reporting requirements. No comments are filed in response to the Board's regulatory flexibility analysis, and the Board finds no reason to change its negative certification for this rule.

List of Subjects in 14 CFR Part 241

Air carriers, Uniform System of Accounts and Reports.

Final Rule**PART 241—[AMENDED]**

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 241, *Uniform System of Accounts and Reports for Certificated Air Carriers* as follows:

1. The authority for Part 241 is amended to read:

Authority: Sections 101, 204, 401, 402, 403, 404, 407, 411, 416, 417, 901, 902, 1002, 1601, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 758, 766, 769, 774, 783, 788; 76 Stat. 145, 92 Stat. 1744; 49 U.S.C. 1301, 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1472, 1482, 1551; sec. 43, Pub. L. 95-504, 92 Stat. 1750, 49 U.S.C. 1552.

2. Section 19-7 is amended by revising paragraph (a) and removing paragraph (f), to read as follows:

Sec. 19-7—Passenger origin-destination survey.

(a) All U.S. certificated route air carriers conducting scheduled passenger operations (except helicopter and wholly intra-Alaska carriers) shall participate in a Passenger Origin-Destination Survey covering domestic and international operations, as described in the Instruction manuals entitled, *Instructions to Air Carriers for Collection and Reporting Passenger Origin-Destination Survey Statistics*, *Instructions to Air Carriers for Collection and Reporting Passenger Origin-Destination Statistics—Special Edition for Carriers Reporting for the First Time on or After October 1, 1979*, and *Passenger Origin-Destination Directives* issued by the Board's staff. Copies of these manuals have been

provided to certificated carriers, and all revisions made after the adoption of this section will be mailed to each certificated carrier. Copies are also available through the Information Management Division, Office of Comptroller.

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-9725 Filed 4-10-84; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****18 CFR Parts 154 and 381****Fees Applicable to Natural Gas Pipeline Rate Matters**

[Docket Nos. RM83-2-000, RM83-2-001, RM83-2-002, RM83-2-003]

Issued April 5, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Granting Rehearing for Purpose of Further Consideration.

SUMMARY: On February 6, 1984 the Federal Energy Regulatory Commission (Commission) issued a final rule in Docket No. RM83-2-000, Order No. 361, 49 FR 5083 (February 10, 1984), establishing fees for natural gas pipeline rate matters.

The Commission received three timely petitions for rehearing of Order 361. By this order, the Commission grants rehearing solely for the purpose of further consideration of those petitions.

EFFECTIVE DATE: This order will become effective April 11, 1984.

FOR FURTHER INFORMATION CONTACT: Karen S. Hurwitz, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: On February 6, 1984, the Federal Energy Regulatory Commission (Commission) issued a final rule which established fees for natural gas pipeline rate matters. Specifically, the rule established the following fees: \$2,000 for tariff filings for general changes in rates and changes other than in rates; \$2,300 for tariff filings that track changes in costs; and direct billing for petitions seeking advance approval of rate treatment of research, development, and demonstration expenditures. These fees

were established under the authority of the Independent Offices Appropriation Act, 31 U.S.C. 483(a), and the Office of Management and Budget (OMB) Budget Circular A-25.

The Commission has received timely petitions for rehearing of this final rule from United Gas Pipe Line Company, (Docket No. RM83-2-001), Interstate Natural Gas Association of America, (Docket No. RM83-2-002), and Transcontinental Gas Pipe Line Corporation (Docket No. RM83-2-003). To have sufficient time to consider the issues raised in these petitions, the Commission will grant rehearing of the final rule solely for the purpose of such further consideration. This action does not constitute a grant or denial of any petition on its merits, either in whole or part. As provided in § 385.713 of the Commission's Rules of Practice and Procedure (18 CFR 385.713), no answers to these petitions will be entertained by the Commission because this order does not grant rehearing on any substantive issue.

By the Commission.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-9836 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Parts 154, 157, 375, 381

[Docket Nos. RM82-25-000, RM82-25-001, RM82-25-002]

Fees Applicable to Producer Matters Under the Natural Gas Act

Issued: April 5, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Granting Rehearing for Purpose of Further Consideration.

SUMMARY: On February 6, 1984 the Federal Energy Regulatory Commission (Commission) issued a final rule in docket No. RM82-25-000, Order No. 360, 49 FR 5074 (Feb. 10, 1984), establishing fees for producer matters under the Natural Gas Act.

The Commission received two timely petitions for rehearing of Order 360. By this order, the Commission grants rehearing solely for the purpose of further consideration of those petitions.

EFFECTIVE DATE: This order will become effective April 11, 1984.

FOR FURTHER INFORMATION CONTACT: Karen S. Hurwitz, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: On February 6, 1984, the Federal Energy Regulatory Commission (Commission) issued a final rule which established fees for producer matters under the Natural Gas Act. Specifically, the rule established the following fees: \$800 for a blanket certificate for a small producer; \$1,600 for a producer certificate of public convenience and necessity; and \$300 for changes in producer rate schedules. These fees were established under the authority of the Independent Offices Appropriation Act (IOAA), 31 U.S.C. 483(a), and the Office of Management and Budget (OMB) Budget Circular A-25.

The Commission has received timely petitions for rehearing of this final rule from Phillips Petroleum Company and Phillips Oil Company (Docket No. RM82-25-001), and Pennzoil Company (Docket No. RM82-25-002). To have sufficient time to consider the issues raised in these petitions, the Commission will grant rehearing of the final rule solely for the purpose of such further consideration. This action does not constitute a grant or denial of any petition on its merits, either in whole or part. As provided in § 385.713 of the Commission's Rules of Practice and Procedure (18 CFR 385.713), no answers to these petitions will be entertained by the Commission because this order does not grant rehearing on any substantive issue.

By the Commission.
Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-9637 Filed 4-10-84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-224 (Colorado—35 Addition); Order No. 368]

High-Cost Gas Produced From Tight Formations; Colorado

Issued April 9, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating

natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that an additional area of the "J" Sand Formation, located in Adams County, Colorado, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective May 9, 1984.

FOR FURTHER INFORMATION CONTACT: Jane M. Oliver, (202) 357-8316 or Victor H. Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations¹ to include an additional area of the "J" Sand Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued January 12, 1984 (49 FR 2116, January 18, 1984)² based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) under § 271.703, that an additional area of the "J" Sand Formation,³ located in Adams County, Colorado, be designated as a tight formation.

Evidence submitted by Colorado supports the assertion that the additional area of the "J" Sand Formation located in Adams County, Colorado meets the guidelines contained in § 271.703(c)(2). The Commission adopts Colorado's recommendation.

This amendment shall become effective May 9, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Inconsideration of the foregoing, Part 271 of Sub-Chapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

¹ 18 CFR 271.703(d) (1983).

² Comments on the proposed rule were invited. One comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

³ The proposed area is contiguous to areas designated as tight formations by the Commission in Docket Nos. RM79-76 (Colorado—1) and (Colorado—35).

By the Commission.

Lois D. Cashell,
Acting Secretary.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by revising paragraph (d)(139) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(139) "J" Sand Formation in Colorado, RM79-76 (Colorado—35).

(i) *Delineation of formation.* The "J" Sand Formation is located in Adams, Arapahoe, and Elbert Counties, Colorado; approximately 12 miles east of the city of Denver. The "J" Sand Formation in Adams County underlies Township 2 South, Range 63 West, Sections 7, 8, 18, 19, 30, 31 and S ½ of Section 32; Township 2 South, Range 64 West, Sections 10 through 15, 22 through 27, and 34 through 36; Township 2 South, Range 65 West, Sections 25 through 36; Township 3 South, Range 63 West, Sections 1 through 12; Township 3 South, Range 64 West, Sections 1 through 36; Township 3 South, Range 65 West, Sections 1 through 36. In Arapahoe County, the "J" Sand Formation underlies Township 4 South, Range 64 West, Sections 1 through 30 and 32 through 36; Township 4 South, Range 65 West, Sections 1 through 30; Township 5 South, Range 63 West, Sections 1 through 36; Township 5 South, Range 64 West, Sections 1 through 5, 8 through 17, 20 through 29, and 32 through 36. In Elbert County, the subject formation underlies Township 6 South, Range 63 West, Sections 1 through 35; Township 6 South, Range 64 West, Sections 1 through 5, 8 through 17, 20 through 29, and 34 through 36; Township 7 South, Range 63 West, Sections 4 through 9, 16 through 21, and 28 through 33; Township 7 South, Range 64 West, Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36, all 6th p.m.

(ii) *Depth.* The "J" Sand Formation ranges in thickness from 40 to 95 feet, and begins at the base of the "D" Sand and extends to the top of the Skull Creek Shale. The average depth to the top of

the "J" Sand Formation is approximately 8,100 feet.

[FR Doc. 84-9639 Filed 4-10-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 201 and 310

[Docket No. 75N-0062]

Labeling for Oral Hypoglycemic Drugs of the Sulfonylurea Class

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is requiring that labeling for oral hypoglycemic drugs of the sulfonylurea class contain a specific warning statement in boldface type about the possibility of increased cardiovascular mortality associated with the use of these drugs. This warning is based on the findings of a study conducted by the University Group Diabetes Program (UGDP), a long-term prospective clinical trial designed to evaluate the effectiveness of glucose-lowering drugs in preventing or delaying vascular complications in patients with non-insulin-dependent diabetes. Elsewhere in this issue of the Federal Register is a notice announcing the availability of guideline labeling for oral hypoglycemic drug products of the sulfonylurea class. Section 201.59 is also being revised to make the effective date for revising labeling for sulfonylurea blood glucose regulators consistent with the effective date of this document.

EFFECTIVE DATES: Effective October 9, 1984 for the addition of new warning information under § 310.517 and for revision of labeling under § 201.59 for oral hypoglycemic drug products of the sulfonylurea class initially introduced or initially delivered for introduction into interstate commerce. For additional information concerning this effective date, see "VI. Paperwork Reduction Act" appearing in the preamble of this document.

FOR FURTHER INFORMATION CONTACT: Robert D. Bradley, National Center for Drugs and Biologics (HFN-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-8490.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 7, 1975 (40 FR 28587), FDA proposed labeling requirements for oral hypoglycemic drug products and announced that an open public hearing would be held on August

20, 1975, so that interested persons could present their views on the proposed labeling.

The proposed labeling requirements were based primarily on a long-term study that began in 1961 and was conducted by UGDP in 12 university medical centers (Refs. 1 through 7). The intent of the UGDP study was to determine if the reduction of blood glucose by oral hypoglycemic drug products and insulin had a beneficial effect on the long-term vascular complications of diabetes. The study initially had four randomly assigned groups of patients receiving the following treatments: (1) 1.5 grams of tolbutamide (an oral hypoglycemic drug) a day (TOLB); (2) 10 to 16 units of insulin a day, based on body area (ISTD); (3) variable dose of insulin adjusted to control blood glucose (IVAR); and (4) placebo (PLBO). Eighteen months later a group was added in which patients were given 100 milligrams of phenformin (another oral hypoglycemic drug) per day. By 1969 the TOLB group showed an unexpected increase in cardiovascular (CV) mortality. UGDP therefore discontinued use of tolbutamide because the investigators felt that no benefit had been shown for these patients and that long-term use of the drug appeared to be associated with increased CV mortality (Refs. 1 and 2). Phenformin was discontinued in 1971 because of similar observations on CV mortality (Refs. 4 and 5).

The initial findings of the UGDP study were released in 1970. FDA announced in May 1970 its basic agreement with the conclusions of the study and its intention to require labeling changes for the oral hypoglycemic drugs reflecting these findings (Ref. 8). From the time the results were first reported, however, the study's design, conduct, analysis, and interpretation have been the subject of controversy (Refs. 9 through 24). The Committee on the Care of the Diabetic, an organization of physicians who opposed the proposed labeling changes, petitioned FDA in 1971 to rescind its position on the labeling. In 1972 the same group filed suit asking that the agency be enjoined from requiring labeling changes based on the UGDP study. *Bradley v. Richardson*, Civil No. 72-2517M (D. Mass. 1972). A temporary restraining order was granted, but an injunction was later denied. Further proceedings filed in 1972 led to a preliminary injunction that restrained the agency from implementing the labeling changes. This preliminary injunction was vacated on appeal in July 1973, and the matter was remanded to FDA. *Bradley v. Weinberger*, 483 F. 2d 410 (1st Cir. 1973).

The agency undertook additional discussions on the labeling with interested individuals and groups. In view of criticism of the UGDP study's design and statistical analysis, the National Institute of Arthritis, Metabolism, and Digestive Diseases, which had financed the study, awarded a contract for an in-depth assessment to the Biometric Society, an international organization of biostatisticians. The findings and conclusions of the Biometric Society's ad hoc committee were published in 1975 (Ref. 25). A more detailed discussion of the events mentioned above and of the review by the Biometric Society committee is set forth in the preamble to the proposed labeling requirements published in the Federal Register of July 7, 1975.

The proposal required that labeling for oral hypoglycemic drug products contain a warning about the possible increased risk of CV death associated with the use of these drugs. The proposed labeling recommended that the physician discuss this risk as well as alternative therapy with the patient, and it limited the indications for use to patients with adult onset diabetes whose symptoms could not be controlled by diet and who could not or would not use insulin.

Interested persons were given until September 5, 1975, to comment on the proposal, and were allowed to submit data, information, or views within 15 days after an open hearing on August 20, 1975. This date was later extended to October 22, 1975, by a notice published in the Federal Register of September 22, 1975 (40 FR 43513).

Some comments questioned the design of the UGDP study, its findings, and the results of the Biometric Society's review of the study, and some comments stated that other studies did not support the UGDP results. In addition, statements were made at the open hearing that the data in the file of the coordinating center for the study had not been audited and, therefore, that the possibility of error or misrepresentation had not been eliminated.

Because of these questions, FDA conducted its own audit of the UGDP study. In the Federal Register of November 14, 1976 (41 FR 52732), the agency announced the availability of its audit and summarized the audit's essential findings. In addition, the agency reopened the comment period on the proposed labeling until January 15, 1979, to permit comments on the audit and on any new issues resulting from FDA's findings. In the Federal Register of January 19, 1979 (44 FR 3994), in response to several requests, FDA

extended the comment period until March 16, 1979, and on March 23, 1979 (44 FR 17720), FDA further extended it until July 16, 1979, to permit a committee of the American Diabetes Association (ADA) to review the data and develop labeling recommendations (Ref. 26). In the Federal Register of July 20, 1979 (44 FR 42714), FDA again extended the comment period until September 14, 1979, in response to a request by the American Medical Association (AMA) to allow it time to prepare a guideline on the use of oral hypoglycemic drugs (Ref. 27).

On January 4, 1979, and July 29, 1979, during the reopened comment period, agency staff met with representatives of ADA to discuss the proposed labeling. The agency, on February 2, 1979, also met with and heard presentations from Drs. Charles Kilo and Joseph Williamson, authors of several articles concerning the UGDP study. Minutes of these meetings are on file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

There were 68 written comments to the proposal prior to reopening the comment period and 17 presentations in response to the open hearing. In addition, material was submitted for the record after the hearing. There were nearly 400 comments and an additional 200 form letters submitted in response to the audit and as a result of the several extensions and reopenings of the comment period. Comments were received from physicians, individuals, manufacturers, medical associations, consumer groups, medical schools, hospitals and clinics, interested professionals, and from representatives of UGDP.

The agency has now considered the entire record and is setting forth its conclusions. In summary, the agency concludes that the UGDP study is an adequate and well-controlled trial and that the association between the use of tolbutamide and increased CV mortality reported by UGDP provides an adequate basis for a warning in the labeling of oral hypoglycemic drugs of the sulfonylurea class. Accordingly, FDA is establishing a regulation that requires a warning statement with respect to CV risk in the labeling of these drugs. This warning statement is required to appear in boldface type at the beginning of the "Warnings" section of labeling. The specific statement required by the regulation has been modified somewhat from that in the July 7, 1975 proposal in response to the comments received.

The UGDP study is subject to some reservations and the agency does not

believe that this study alone provides conclusive evidence of a risk of increased CV mortality, nor does the available information from all studies taken together provide such evidence. The 1975 proposal (40 FR 28591) pointed out, however, that the requirement for a warning does not depend on such a risk being proven with certainty. The agency believes that the findings reported by UGDP constitute reasonable evidence of an association between the use of oral hypoglycemic drugs and increased CV mortality, a serious hazard. If evidence of certainty were available, more stringent regulatory action would be appropriate, such as limiting use only to a very small, well-defined population, or even withdrawal from marketing.

Many of the criticisms directed at the UGDP study can be shown on careful analysis to be mistaken or are irrelevant to the issue of increased CV mortality. Some of the criticism, however, raises uncertainty on some aspects of the study and does tend to weaken the strength of the association between the use of tolbutamide and increased CV mortality reported by UGDP. The agency fully recognizes the existence of these weaknesses; it advises that it has taken them into account in deciding on the level of regulatory action necessary to deal with the perceived risk.

This residual uncertainty on the strength of the association between tolbutamide use and increased CV mortality derives mainly from the following considerations: (1) The reported association is based upon a post hoc subgroup analyses of CV mortality without a statistically significant finding with respect to total mortality (see paragraph 46); (2) there is some suggestion that the number of CV deaths in the placebo (PLBO) group was spuriously low, probably as a random event, during the "tolbutamide phase" (first several years) of the study (see paragraph 40); (3) the question of comparability of the groups at baseline is complicated by a slight imbalance in favor of greater CV risk in the tolbutamide (TOLB) group, by the fact that information on certain risk factors was not obtained, and by the difficulty of considering interactions among risk factors (see paragraphs 36 and 37); (4) in spite of attempts to identify a pharmacological or pathological mechanism of action that would account for increased CV mortality related to tolbutamide, no consistent or generally accepted mechanism has been identified (see paragraphs 71 and 72); and (5) although not as definitive as the UGDP study in either design or size, other studies that might have shown trends in the same direction as the UGDP study

have not done so; the association identified by the UGDP study thus stands neither refuted nor corroborated by other data (see paragraphs 58 through 69).

The agency believes that uncertainty about the strength of the association reported by the UGDP study is unlikely to be clarified further by additional analyses. Each of the issues above has already been subjected to extensive comment and analysis. At the same time, none of the considerations above, taken alone or together, constitute in the judgment of the agency a fatal flaw that prevents the UGDP trial from being considered a basis for warning information in drug labeling. While they operate in the direction of weakening the strength of the association between tolbutamide and increased CV mortality, the extent of this weakening cannot be quantified in mathematical or statistical terms, and different observers will bring differing value judgments to their interpretation of the significance of these issues.

As noted above, the agency has considered these weaknesses in the context of formulating a proper regulatory response to the UGDP findings. Thus, the agency no longer believes that the findings of the UGDP study are sufficiently strong to support the sequential ordering of treatment included in the "Indications" section of the labeling proposed in 1975 (see paragraph 81), and has not implemented its proposal to include the statement in the labeling that the use of oral hypoglycemic drugs should be limited to patients who cannot take insulin.

In addition, while the CV warning, because it concerns the possibility of a serious adverse event, is required to appear in boldface type at the beginning of the "Warnings" section of the labeling, it is not required to be enclosed in a box, as was specified in the proposal. The agency has concluded that the more serious connotation of hazard associated with use of a "box" warning, and the accompanying restrictions on advertising imposed on drugs whose labeling contains such a warning, should not be imposed on oral hypoglycemic drugs on the basis of the UGDP study. The added concern suggested by a box may not appropriately reflect the level of certainty surrounding the UGDP results. To the extent that there is a need to call the attention of physicians to a special warning of possible increased risk of CV mortality, the use of a specified, highlighted warning text is viewed as fully satisfactory.

Finally, the first sentence of the warning has been changed from "The administration of oral hypoglycemic drugs may be associated with increased cardiovascular mortality * * *" to "The administration of oral hypoglycemic drugs has been reported to be associated with increased cardiovascular mortality * * *". Taken together, these changes are viewed by the agency as representing a reasoned response to both the comments received and the agency's own subsequent review and analysis of the results of the UGDP study.

In the July 7, 1975 proposal, the agency set forth the entire text of the professional labeling in the proposed regulation. FDA's subsequent experience has been, however, that processes associated with codification of full labeling in the Code of Federal Regulations are inefficient. While the full public participation that occurs in rulemaking is desirable in the formulation of drug labeling, FDA has found it to be outweighed by the delay that results from the use of notice and comment rulemaking in providing new drug information to the health care professionals who prescribe and dispense prescription drug products. Similarly, the advantages in compliance that are obtained from prescribing labeling text in regulations can be outweighed by the difficulty attendant to changing labeling requirements as a result of new information. For these reasons, the agency has adopted the use of guidelines as the most useful method of making available appropriate drug labeling. Guidelines provide for some public participation in their development, yet permit modification without the delays attendant to the modification of regulations. Accordingly, except for the prescribed warning statement, the remainder of the labeling for oral hypoglycemic drugs of the sulfonylurea class is being adopted as an agency guideline under 21 CFR 12.90(b).

Because the full text of the labeling for oral hypoglycemic drugs was the subject of a notice of proposed rulemaking, full public participation has taken place in its development. While most of the labeling is now being issued as a guideline, the agency views the need to warn physicians and patients of the hazards associated by UGDP with oral hypoglycemic drug use as sufficiently important to implement the warning statement on increased risk of cardiovascular mortality as a final regulation.

The combined use of a guideline and regulation in the publication of oral

hypoglycemic labeling will result in specific compliance with respect to the warning provision, and will still retain optimal flexibility to implement changes in other parts of the labeling. The warning must be included in the labeling of any oral hypoglycemic drug of the sulfonylurea class initially introduced or initially delivered for introduction into interstate commerce after the effective date of the regulation.

A separate notice published elsewhere in this issue of the *Federal Register* announces the availability of the guideline. The guideline labeling being made available can be used by firms in preparing revised labeling complying with the requirements of §§ 201.56, 201.57, and 201.100(d)(3), which were to become effective for oral hypoglycemic drug products as well as all other blood glucose regulators on November 1, 1983, under the provisions of § 201.59. Because publication of this document has been delayed beyond the November 1, 1983 effective date, the agency is amending § 201.59 to change the effective date for sulfonylurea blood glucose regulators, which include oral hypoglycemic drug products, to coincide with the October 9, 1984 effective date for the warning statement for oral hypoglycemic drug products required by this final rule. For additional information concerning this effective date, see "VI. Paperwork Reduction Act" appearing later in this preamble.

As the guideline labeling contemplates that certain items of information will be supplied by drug manufacturers, prior approval will be required before manufacturers may put revised labeling into effect. To accommodate the need for manufacturers to obtain prior approval and subsequently implement labeling revisions by the October 9, 1984 effective date, the agency advises that applications should be submitted to it for review by July 10, 1984. This period should be sufficient for manufacturers to prepare and submit applications, as the guideline labeling provides a basis for much of the required information. The agency cannot assure that applications submitted after July 10, 1984 will be approved in time to permit manufacturers to implement required labeling changes for oral hypoglycemic drug products initially introduced or initially delivered for introduction into interstate commerce after October 9, 1984. To the extent that individual manufacturers may be unable to meet this effective date, they may request a waiver under the provisions of 21 CFR 5.31 and 10.30. Absent extraordinary circumstances, however, FDA will not

consider a waiver of the effective date for the warning requirement. The agency has amended § 201.59 to reflect these revised dates by separating sulfonylurea drug products from other blood glucose regulators. Recalls of outstanding stocks manufactured and distributed legally before the effective date will not be required.

The labeling proposed in the July 7, 1975 document applied to two classes of oral hypoglycemics: The sulfonylureas and the biguanides. Approved drugs in the sulfonylurea class are tolbutamide, chlorpropamide, acetohexamide, and tolazamide. The biguanide class at that time included only one drug phenformin. Because of phenformin's association with the often fatal condition, lactic acidosis, on November 15, 1978, the Commissioner of Food and Drugs, after following procedures for invoking the imminent hazard clause of section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(e)), issued a final decision withdrawing approval of the new drug applications (NDA's) for phenformin. A notice of the availability of that decision was published in the *Federal Register* of November 24, 1978 (43 FR 54995). Because of that decision, no approved drug remains in the biguanide class of drugs. Therefore, this regulation and the guideline labeling are specific for the sulfonylureas and comments specific to phenformin issues are not addressed in this document.

I. The UGDP Study

The UGDP study is a large, prospective, randomized, multicenter clinical trial conducted by investigators in 12 university clinics. The data were collected and analyzed by a Coordinating Center in Baltimore, MD. The results of the UGDP study have been published in a number of papers in the medical literature. For purposes of brevity in describing certain results and in responding to comments, the following abbreviations will be used in referring to different publications from the UGDP:

UGDP I: "Design, Methods, and Baseline Results," *Diabetes*, 19 (supp. 2): 747-783, 1970 (Ref. 1).

UGDP II: "Mortality Results," *Diabetes*, 19 (supp. 2): 785-830, 1970 (Ref. 2).

UGDP III: "Clinical Implications of UGDP Results," *Journal of the American Medical Association*, 218: 1400-1410, 1971 (Ref. 3).

UGDP IV: "A Preliminary Report on Phenformin Results," *Journal of the American Medical Association*, 217: 777-784, 1971 (Ref. 4).

UGDP V: "Evaluation of Phenformin Therapy," *Diabetes*, 24 (supp. 1): 65-184, 1975 (Ref. 5).

UGDP VI: "Supplement any Report on Nonfatal Events in Patients Treated with Tolbutamide," *Diabetes*, 25: 1129-1153, 1976 (Ref. 6).

UGDP VII: "Mortality and Selected Nonfatal Events with Insulin Treatment," *Journal of the American Medical Association*, 240: 37-42, 1978 (Ref. 7).

Also for brevity, and to be consistent with terms used by UGDP, abbreviations are used for the treatment groups employed by UGDP.

TOLB: Refers to the group on diet plus a fixed dose of tolbutamide (1.5 grams per day).

IVAR: Refers to the group on diet plus a variable dose of insulin intended to maintain "normal" blood glucose levels.

ISTD: Refers to the group on diet plus a fixed dose of insulin (10 to 16 units daily depending on the patient's body surface area).

PLBO: Refers to the group on diet plus placebo.

Units of measure, specific types of tests, and medical terms are abbreviated as follows:

mg: milligram.

mL: milliliter.

dL: deciliter (100 mL).

GTT: Glucose tolerance test.

SUM GTT: Sum of the glucose values obtained at fasting and at 1 hour, 2 hours, and 3 hours after the glucose load during the glucose tolerance test.

CV: Cardiovascular.

FBG: Fasting blood glucose.

Patients entering the UGDP study (with the exception of the phenformin group) were recruited between February 1961 and February 1966. These patients were assigned randomly to one of four treatment groups (TOLB, ISTD, IVAR, or PLBO) and were followed prospectively. As the study progressed, the investigators noted the unexpected finding that mortality from CV causes was higher in the TOLB group than the PLBO, and the administration of tolbutamide was stopped in 1969. The mortality results of the study up to October 7, 1969 were analyzed and published in UGDP II (Ref. 2).

The study was continued for patients in the insulin groups through 1974 to evaluate the long-term effects of insulin on mortality and vascular complications in patients with non-insulin-dependent diabetes. After tolbutamide and its matching placebo were discontinued, patients assigned to these groups also were followed through 1974. This second phase will be referred to in this document as the "insulin phase" of the study, while the earlier phase, up to

October 7, 1969, will be referred to as the "tolbutamide phase." This is a useful distinction for certain statistical comparisons.

Subsequent to the original publication of the UGDP study with respect to tolbutamide and CV mortality (UGDP II, Ref. 2), FDA received additional information in the course of its audit (Ref. 28), in correspondence from the Coordinating Center, and from UGDP VI

(Ref. 6) indicating certain errors in the number of deaths reported in some of the groups in the original publication. Some of the numerical differences were noted in a table published in the *FDA Drug Bulletin* of December 1978—January 1979 (Ref. 29). As a result of this new information, the agency has revised the figures for the "tolbutamide phase" of the UGDP study as shown in Table 1.

TABLE 1.—MORTALITY IN TOLBUTAMIDE PHASE OF UGDP STUDY

	Number of patients at risk	Cardiovascular deaths		Total deaths	
		Published by UGDP in 1970 (Ref. 2)	Final tabulation	Published by UGDP in 1970 (Ref. 2)	Final tabulation
PLBO	205	10	10	21	23
TOLB	204	26	26	30	30
ISTD	210	13	15	20	22
IVAR	204	12	16	18	22

The differences are based on the following information:

1. The causes of death initially assigned by the UGDP mortality review team in two patients were later changed by the same review team, but the first assignments rather than the corrected assignments were published in 1970 (Ref. 2). One PLBO death was changed from the CV to the non-CV category, and one IVAR death was changed from the non-CV to the CV category.

2. Eight additional deaths are included in Table 1 that were not reported by the UGDP in 1970 (Ref. 2). These patients all died before the cut-off date for the tolbutamide analysis (October 7, 1969), but the UGDP coordinating center did not receive the information until after that date. These deaths were classified as: PLBO, one CV and one non-CV; ISTD, two CV; IVAR, three CV and one non-CV. Three of these eight deaths were not included in the retabulation of deaths published in the *FDA Drug Bulletin* (Ref. 29). The figures under "Final tabulation" in Table 1 are those used by FDA in analyzing the results of the UGDP study.

The labeling statement set forth by this final regulation in § 310.517 is a required warning describing the UGDP finding that the cardiovascular mortality rate in the diet plus tolbutamide group was approximately 2½ times that of patients treated with diet alone. The warning also includes the statement that the patient should be informed of the advantages and potential risks of the oral hypoglycemic drug being considered and of alternative modes of therapy. Although FDA's regulations on the content and format of prescription drugs (21 CFR 201.56 and 201.57) do

provide for a subsection entitled "Information for the Patient" under the "Precautions" section of the labeling, these regulations do not preclude information for the patient appearing in other sections of the labeling. FDA concludes it is appropriate in this instance that the statement about informing patients of the risks of oral hypoglycemic drugs accompany the warning to which it pertains. Reference to the "Warnings" section has consequently been included in the "Precautions" section of the guideline labeling.

A summary of the substantive comments received on the UGDP study, the July 7, 1975 proposal, and the FDA audit, and the agency's responses to those comments follows.

Legal

1. Several comments stated that two of the authorities cited by FDA in the preamble to support the proposed labeling, i.e., sections 502 and 701(a) of the act (21 U.S.C. 352 and 701(a)), are inconsistent with section 505 of the act. The comments stated that the products to which the proposed labeling would apply are subject to approved NDA's and argued that section 505(e) of the act provides the only procedure by which FDA may withdraw approval of an NDA and that withdrawal must be based upon a determination that labeling contained in the NDA is false or misleading in light of "new information." The comments further argued that FDA cannot circumvent this procedure by issuing a notice of its intent to treat as misbranded those drugs whose labeling is in full compliance with NDA's that have been approved by the agency.

The agency disagrees with these comments. Although section 505(e) of the act provides that FDA may withdraw approval of an NDA if new information demonstrates that the approved labeling is false or misleading, section 505 of the act is not the exclusive method for regulating new drugs. All drug products, including those subject to section 505 of the act, are subject to the misbranding provisions of section 502 of the act, and FDA is authorized to regulate the content of labeling of all drugs through regulations issued under sections 502 and 701(a) of the act. Accordingly, the agency's reliance on section 502 and 701(a) of the act in this rulemaking action is completely appropriate.

2. One comment objected to the statement in the proposal that no manufacturer of oral hypoglycemic drugs has initiated proceedings challenging the agency's authority to require changes in labeling of its products or attacking the scientific basis for the specific labeling changes that the agency proposed to require. The comment stated that no final action had been taken to permit a manufacturer to initiate proceedings.

The statement in the proposal referred to the fact that the only legal challenge to the labeling for oral hypoglycemic drug products published in the *FDA Drug Bulletin* of June 1971 (Ref. 30) was filed not by a manufacturer, but by the Committee on the Care of the Diabetic, which is a group of physicians who opposed the labeling changes proposed by FDA. The comment is correct that it would be procedurally proper for legal challenges to revised labeling requirements to be filed only after publication of this final regulation.

3. One comment stated that FDA, by requiring generic drug manufacturers of tolbutamide to include the warning statement contained in the July 7, 1975 proposal, has predetermined the labeling issues and has taken final agency action without waiting for the notice and comment rulemaking proceeding to be completed. As a result, the agency has affected a significant sector of the oral hypoglycemic market before final agency action has occurred on the labeling. The comment further requested the agency to require the generic tolbutamide manufacturers to remove the warning until such language is legally promulgated and scientifically supported.

The agency advises that it has not predetermined the labeling issues and that it has not required generic manufacturers of tolbutamide to include the warning in their labeling. However, several manufacturers have included the

warning statement voluntarily in labeling submitted in conjunction with abbreviated new drug applications, which applications the agency approved. Because the agency believed the labeling to have been accurate as of the time of approval, its approval of these applications was entirely appropriate. Further, there is no legal reason for, nor any public health purpose to be served by, requiring generic manufacturers to remove warning and indications statements that the agency believes to have been appropriately included in oral hypoglycemic labeling simply because the agency is conducting an administrative procedure to require revisions in all labeling. The agency advises that because the final regulation includes a warning statement somewhat different from that approved for these generic manufacturers, their product labeling will need to be revised along with the labeling for other oral hypoglycemic drug products.

4. One comment referred to FDA's revision of 21 CFR 1.3 (recodified as 21 CFR 1.21 in the Federal Register of March 22, 1977 (42 FR 15553)) which precluded the "Warnings" section of drug labeling from reflecting differences of opinion as to safety and effectiveness. The comment argued that, as amended, § 1.3 circumvents an admonition in *Bradley v. Weinberger*, 483 F. 2d 410 (1st Cir. 1973) that the agency work together with the litigants to write balanced labeling.

In its opinion in the *Bradley* case, the Court of Appeals remanded FDA's original decision on oral hypoglycemic labeling for consideration of whether § 1.3 required inclusion of differences of medical opinion. FDA's response, which it based on the "substantial evidence" requirements of the Federal Food, Drug, and Cosmetic Act, was the issuance of revised § 1.3, which no longer permits a statement of differences of opinion in required warnings in the labeling of drugs. The agency believes the revision of § 1.3 and this final regulation conform to the *Bradley* court's directives. FDA disagrees with the comment that the *Bradley* court required FDA to write labeling that would satisfy the private litigants in that case.

General

5. Several comments stated that the proposed labeling would ban the use of oral hypoglycemic drug products. One comment stated that patients have a basic right to their choice of treatment and that the proposed regulation would infringe on that right.

The proposed labeling statement would not have resulted in a ban of oral

hypoglycemic drug products. While it recommended that oral hypoglycemic drug products not be used unless insulin therapy could not be given, it did not prevent patients from receiving oral hypoglycemic drugs or physicians from prescribing them according to their best medical judgment. The requirements for labeling in this final rule, which no longer recommends that oral hypoglycemic drugs be used only when insulin cannot be used and is significantly less restrictive than that proposed, are to that extent more consistent with the views expressed in the comment. They also do not constitute a ban against the use of oral hypoglycemic drugs. As is common with prescription drug labeling, the revised labeling notifies the physician of a possible risk associated with the use of these drugs. It also advises the physician that the patient should be informed of this risk, a practice that is less common but has substantial precedent in drug labeling generally.

6. Several comments suggested that the proposal be withdrawn. Some comments stated that UGDP was too controversial for any conclusions to be drawn from the study. Other comments stated that final regulatory action should be postponed until newer analyses and reports could be evaluated, or until new labeling written by a panel of experts could be repropounded by the agency for comment. Three comments stated that their comments will serve as the basis for a request for an evidentiary hearing unless satisfactory resolutions can be developed. Other comments stated that if such a hearing would delay the labeling change, a "Special Warning Section" could be included pending resolution of the issues in an adjudicatory hearing.

FDA is aware that there has been controversy in the scientific community concerning UGDP. However, the agency has received extensive information on the UGDP study in the course of the administrative and judicial proceedings associated with the proposed warning. The agency does not agree that withdrawal of the proposal or a reproposal is either necessary or desirable. Further, the agency believes the issues surrounding UGDP have been sufficiently discussed, and that a formal evidentiary hearing, which agency regulations do not require in rulemaking of this type, would serve no useful purpose.

7. One comment stated that FDA is inconsistent in evaluating safety and effectiveness data. The comment quoted from the *Benylin* decision (44 FR 51518; August 31, 1979) that it is "a basic

proposition of science that an experiment must be reproducible in order for the results to be considered valid." The comment claimed that while this was FDA's policy in discounting the chronic cough studies in the Benylin decision, it appears to be reversed by the acceptance of uncorroborated UGDP data. Again, referring to the Benylin decision, the comment stated that FDA's then bureau of Drugs (now the National Center for Drugs and Biologics) considered the subjective methods of evaluation in the Tebrock and Burke studies to be inadequate to permit quantitative evaluation; yet FDA accepted flawed data from the UGDP study.

The agency has not been inconsistent in its evaluation of safety and effectiveness data with respect to the Benylin decision and this matter. The Benylin decision concerned an applicant for an NDA, who was required to submit data showing that the drug was safe for use under the conditions prescribed and that there was "substantial evidence" of effectiveness of the drug, as defined in section 505(d) of the act, for its intended use. The requirements of section 505(d) of the act are amplified in FDA's regulations (21 CFR 314.111), which, among other things, describe the types of controlled investigations that will meet the existing legislative standards for the establishment of effectiveness. The standard for requiring a warning statement, however, is a lower one; a warning need not be based on controlled trials or corroborated evidence. See, e.g., 21 CFR 201.57(c), which requires only reasonable evidence of an association of a serious hazard with a drug to support a warning; a causal relationship need not have been proved. Thus, drug labeling should include a warning whenever reasonable evidence exists indicating an association between a drug and a serious hazard. That the agency may have discounted conclusions of the Benylin studies regarding efficacy, therefore, does not support discounting the safety concerns raised by the UGDP study.

8. Several comments stated that before final agency action is taken on oral hypoglycemic drug labeling, FDA must provide the underlying UGDP data for comment. Some of the comments cited a number of decisions to support the request for raw data. Some of the comments suggested that FDA take no final action until after the Supreme Court issued its decision as to whether UGDP data should be released.

On March 3, 1980, the Supreme Court decided *Forsham v. Harris* (445 U.S.

169), which concerned the availability of the raw data generated by the UGDP study. The Court held that the raw data of a privately conducted but Federally funded clinical study were not "agency records" under the Freedom of Information Act. The Court's opinion supports FDA's view that the Freedom of Information Act did not require it to obtain these data from UGDP for purposes of disclosure to the public.

FDA does not believe, moreover, that disclosure of raw data held by UGDP other than that already released as a result of the FDA audit is necessary to support FDA's conclusion in this rulemaking action. The reports of the UGDP studies, the various audits of those reports, and the raw data that served as the basis for the FDA audit are all available publicly and adequately support the new label warnings. FDA does not believe it must now obtain and then disclose the remaining UGDP raw data in order to finalize the new labeling requirements. In subjecting the UGDP reports to an audit, FDA has taken adequate and reasonable steps to ensure their reliability. Finally, the data belong not to FDA, but to UGDP, and their forced release by FDA, absent any need for further data, would have severe repercussions on the proprietary relationship that exists between those who conduct scientific studies with government funding and the data those studies produce.

FDA's decision to rely on the UGDP reports is a reasonable one based on the data available. The absence of a credible claim that the underlying data of UGDP are invalid, the reviews by the Biometric Society committee and the FDA audit, and the difficulties and delay that would accompany first obtaining and then disclosing the data make the Commissioner's decision to reject further inquiry into the raw data reasonable in the context of the particular changes in oral hypoglycemic drug labeling imposed by this regulation.

9. Some comments objected to the imposition of a requirement for class labeling for oral hypoglycemic drug products before FDA publishes final regulations for the prescription drug labeling format proposed on April 7, 1975 (40 FR 15392).

The agency notes that the final regulations for the prescription drug labeling format were published June 26, 1979 (44 FR 37434) and became effective December 26, 1979. Therefore, these comments are moot.

10. One comment stated that the phenformin hearings established an administrative precedent in which the

lack of reliability of the UGDP study for regulatory purposes was declared. The comment further stated that FDA has the burden to bring forward new evidence for the record of this proceeding in order to prevail on the rulemaking proposal.

This comment apparently refers to the statement by the Administrative Law Judge (ALJ) in his initial decision on phenformin that the "lack of availability of underlying data casts considerable doubt on the reliability of the UGDP conclusions from an evidentiary standpoint."

The issue in the phenformin proceeding was substantially different than the one present here. In the phenformin proceeding, the question before the agency was whether phenformin presented a risk of lactic acidosis sufficiently significant to require withdrawal of the drug's NDA. The ALJ specifically recognized that the UGDP study "was designed to determine the effects of hypoglycemic agents on vascular complications in adult-onset diabetes and not to determine the incidence of lactic acidosis in phenformin users." (Initial decision p. 20.) Therefore, the ALJ's decision not to rely on the UGDP study in the phenformin matter is not properly dispositive on its use in this proceeding, which concerns the entirely different issue of the appropriateness of a warning on cardiovascular deaths associated with use of oral hypoglycemic drugs generally.

Of equal importance, moreover, is the ALJ's ruling, which was affirmed by the Commissioner in his final decision, to permit general reliance on the UGDP study "for the purpose of raising questions as to the safety of phenformin." (Initial decision, p. 7; Final decision, p. 20969.) Finally, the agency advises that since the conclusion of the phenformin proceeding, the UGDP data have undergone an additional audit by FDA that has generally confirmed the agency's previous findings. In sum, there is nothing in the phenformin proceeding that argues persuasively against the use of the UGDP study as a basis for revising the labeling of oral hypoglycemic drugs.

The phenformin decision also does not support the comment's further claim that FDA has the burden to bring forward new evidence in order to put the proposed rule into final form. In this notice and comment proceeding, unlike the formal evidentiary public hearing involving withdrawal of the new drug applications for phenformin, the burden that the agency must meet is that its judgment not be arbitrary, capricious, an

abuse of discretion, or otherwise not in accordance with law (5 U.S.C. 706(2)(A)). For the reasons mentioned in the response to paragraph 8 above, FDA believes its reliance on the reports of the UGDP study, as audited, meet this statutory standard.

11. One comment stated that FDA has become partisan in its stance on oral hypoglycemic drug product labeling. The comment stated that FDA had predetermined its policy in this regard, giving as an example a statement made by the director of the then bureau of Drugs that a number of criticisms have been made to discredit the study rather than to pay attention to the findings (Radio interview, Station WOR, New York, November 21, 1978). The comment stated that those opposed to the study are, according to FDA, irrationally motivated to discredit the study. The comment further stated that this strong likelihood of confusion between the policy setting and fact resolution functions is a basis for a hearing.

The agency has not predetermined its decision regarding oral hypoglycemic drug labeling. FDA has, rather, taken extensive care to review and consider all criticisms of the study, has taken the unusual step of subjecting the study conclusions to an audit, and has held several meetings with experts in the care of diabetics. As a result, many changes have been incorporated since the labeling was first proposed. The statement by the director of the Bureau of Drugs referred to in the comment, in characterizing certain opposition to the UGDP study, does not indicate that other than objective standards have been used to evaluate the study's conclusions. The agency does not consider the Director's comment to reflect any confusion between policy or fact, or to provide any other putative basis for a hearing.

12. One comment stated that FDA does not have authority to relabel a drug product on its own initiative as evidenced by the failure to finalize the proposed labeling for prescription drugs used in man.

FDA believes it has clear authority to initiate labeling changes for drug products through regulations issued under particular sections of the act or through the new drug approval process, and the comment provides no rationale for a contrary position. FDA's regulatory authority extends to drug labeling under sections 502 and 701(a) of the act; it has additional authority to initiate labeling changes for new drugs under section 505(e) of the act. FDA is responsible for assuring that drugs are safe and effective for their intended use, and that drug labeling provides adequate

information for such use and is neither false nor misleading. The full disclosure of information to physicians through labeling concerning such matters as effectiveness, contraindications, warnings, precautions, and adverse reactions is an important element in the discharge of that responsibility. As indicated previously in paragraph 9 above, FDA has now issued a final regulation on the required content and format for prescription drug labeling.

13. Three comments recommended that only those analyses of the UGDP data and findings published in refereed scientific journals, i.e., journals that do not publish articles until they have undergone outside critical peer review, should be given professional credence. Two comments submitted an example of biased reporting in a nonrefereed publication and deplored the fact that the widespread dissemination of allegations appearing in such publications has had a significant negative impact on resolving the UGDP controversy.

The agency recognizes that any publication, whether refereed or not, may at times report data analyses or commentary that others consider biased. Health professionals must use their training, judgment, and experience to determine what information will be given their professional credence. To support its conclusion in this proceeding, the agency has relied on data that it believes are scientifically valid and verifiable.

14. Two comments suggested that an educational program for physicians on the correct use of oral hypoglycemic drugs would be more helpful in promoting good health and long life for diabetics than the proposed labeling.

The agency agrees that education of physicians is important to proper drug use and encourages all efforts to educate both physicians and patients as to the correct use of these drugs. However, determination of a drug's official labeling is a primary responsibility of FDA. The agency believes it can contribute most effectively to physician education in this instance by requiring drug manufacturers to include an appropriate warning statement in the labeling.

15. Several comments stated that the proposed sequential ordering of treatment was so worded that anyone prescribing oral agents would be risking malpractice.

The agency does not agree that the proposed labeling would have placed physicians at risk of malpractice. However, because the sequential ordering of treatment (which stipulated that insulin should be used before oral

hypoglycemic drugs except for specified reasons) is not a part of the final regulations, these comments are now moot.

16. Some comments stated that FDA, in proposing oral hypoglycemic labeling, was responding to political pressure rather than scientific evidence.

The agency advises that its action is based completely on the available scientific evidence with respect to a reported association between tolbutamide and increased CV mortality, and not on any political pressure. It is the agency's position that drug labeling should include a warning whenever reasonable evidence exists indicating an association between a drug and a serious hazard. FDA believes that the UGDP study demonstrates reasonable evidence of a possible association between CV mortality and the use of oral hypoglycemics, and for this reason is requiring labeling changes.

Design and Conduct of the UGDP Study

17. Several comments pointed out that some UGDP investigators disagreed with policy decisions made by a majority of the investigators regarding the conduct of the study. One comment stated that FDA's account of the UGDP study in the July 1975 proposal was too brief and that such disagreements should have been mentioned.

The agency is aware that some UGDP investigators disagreed with the majority position on certain decisions; for example, the decision to terminate drug treatment. A lack of unanimity on all issues requiring judgment in a large clinical trial involving many investigators is not surprising and does not invalidate the study findings. Although the preamble to the July 1975 proposal did not specifically discuss internal disagreement among the UGDP investigators, it did discuss criticisms of the design and conduct of the study, whether from sources internal or external to UGDP. To the extent that criticisms about the conduct of the study are contained in comments to the agency, they are addressed in this document in paragraphs 18 through 46 below (see, for example, paragraph 40 concerning termination of drug treatment).

18. Several comments stated that the UGDP study was not designed to measure drug toxicity and one comment stated that evaluation of drug toxicity should have included testing of, for example, blood and urine samples for drug levels. Other comments stated that testing blood and urine samples could also have determined patient adherence to the drug regimen.

The comment is correct in stating that the UGDP study was not primarily intended to detect drug toxicity, but it nonetheless was capable of determining differences in death rates, whether favorable to a treatment or adverse to it, in the various groups of patients. Although finding a correlation between higher tolbutamide levels in blood or urine and CV mortality may have given increased weight to the association between drug use and CV mortality, the absence of such data does not invalidate the mortality findings.

Determination of drug in blood and urine is, moreover, but one method of assessing adherence to a drug regimen. Whether this method is used for a specific clinical investigation is a judgment based on such factors as availability of an assay, expense, and the availability of other methods for evaluating drug compliance. Other methods of evaluating compliance were used in the UGDP study and the absence of drug levels does not invalidate an assessment of compliance by these methods (see paragraph 34).

19. One comment stated that the results of the UGDP study are meaningless because no attempt was made in the design of the study to distribute the risks for CV related death equally among the various treatment groups to ensure group comparability.

The agency disagrees with this comment. A study may properly randomize patients without first stratifying them by known risk factors as a method of attempting to distribute both unknown and unknown risk factors approximately equally among several treatment groups. The success of randomization in achieving a reasonably equal distribution of risk factors depends in part on their frequency in the study population and the number of patients in the study. The distribution of patients with known risk factors usually is assessed in the analysis of a study, as was done by UGDP, to determine if randomization was successful in achieving a balance.

There are also methods of analysis that take into consideration or make adjustments for imbalances of risk factors that may have resulted among patients in different treatment groups. UGDP, for example, analyzed the mortality among subgroups of patients having specified baseline risk factors and found that the percentages of patients dead from cardiovascular causes were the same or higher for tolbutamide-treated patients compared to placebo-treated patients in 27 of 28 subgroups considered. A multiple logistic regression analysis was also used to make adjustments for

imbalances of baseline risk factors (see paragraph 35). The agency concludes, therefore, that the findings of the study are not invalidated because prerandomization stratification for CV risk factors was not carried out.

20. Several comments stated that patient selection was inappropriate because 69 patients did not meet UGDP's own admission criteria for the diagnosis of diabetes. Therefore, the comment stated, the study should be dismissed. One comment stated that including subjects who were not diabetic by generally accepted test criteria would probably distort the results of the study. The "generally accepted test criteria" suggested in the comment were a SUM GTT greater than 600 mg/dL or a fasting blood glucose (FGB) of at least 110 mg/dL.

The statement was made in UGDP I (Ref. 1, p. 759) that 69 patients were admitted to the study whose SUM GTT values were less than the 500 mg/dL specified as an entrance criterion. (This was corrected to 55 patients in a later publication (Ref. 5, p. 119).) Most patients not meeting this entrance criterion were admitted because early in the study glucose determinations had been made on serum rather than whole blood in four clinics due to an incorrect interpretation of the study protocol. Of these patients, however, approximately 70 percent were reported to have had at least one SUM GTT equal to or greater than 500 mg/dL during the course of the study (Ref. 1, p. 759). Moreover, the number of patients not meeting the UGDP criteria was small, these patients were distributed similarly among the four treatment groups, and in any case, the only death reported among these patients was a non-CV death in the PLBO group (Ref. 2, p. 798). Therefore, the agency believes that including such patients cannot account for and could not have contributed to the finding of excess CV mortality in the TOLB group.

The agency recognizes that there has not been universal agreement on the criteria for the diagnosis of diabetes, nor has the procedure for performing an oral glucose tolerance test been uniform. This problem was considered by the UGDP investigators who determined the number of UGDP patients who would be classified as diabetic by other diagnostic standards (Ref. 2, p. 798). In the agency's view, the UGDP criteria and these other standards corresponded adequately, particularly when the lower glucose loading dose employed in the UGDP study (30 grams per square meter of estimated body surface) is considered.

21. One comment stated that the actual duration of diabetes at baseline

was unknown, implying that differences in the duration of disease among patients in the four treatment groups could explain mortality differences.

The agency recognizes that there are no methods to ascertain the exact duration of diabetes before diagnosis of the disease. The UGDP protocol specified that patients were eligible for participation in the study provided that diabetes had been diagnosed no longer than 1 year before the initial referral of the patient to the study clinic. The agency believes this to be a reasonable criterion for establishing a baseline for duration of diabetes for patients in the study.

22. Several comments stated that the UGDP results were doubtful because investigators failed to follow the part of the protocol specifying that participants have at least a 5-year life expectancy. One comment noted that 44 percent of the 97 deaths occurred within the first 5 years of the study. Another comment referred to the high percentage of patients in their 60's and 70's who were recruited into the study.

The agency advises that there was no specific age limitation in the UGDP protocol. The UGDP protocol stated only that the patient was to be free from chronic disease or conditions which, in the judgment of the examining physician, made it unlikely that the patient would live more than 5 years. This prerandomization patient selection guide would not reasonably be expected to ensure survival but only the likelihood of survival. The mean age of all patients on admission to the study was 52.7 years of age; only 15.2 percent of the patients were 65 years of age or older (Ref. 1, p. 758). A comparison of the baseline age distribution between the TOLB and PLBO groups reveals that they were similar; mean ages were 53.0 and 52.2 years of age in the TOLB and PLBO groups, respectively. The percentages of patients 65 years of age or older were 14.7 percent and 16.5 percent for TOLB and PLBO, respectively (Ref. 1, p. 758). The agency does not consider the age distribution unreasonable for the study undertaken, and more importantly, finds the difference in the distribution by age between the groups to be negligible. Furthermore, only one CV death in each of these groups occurred in patients who were 70 years of age or older at the time of entry into the study, a fact which tends to demonstrate that the age of the participants did not prejudice the study's findings.

23. Several comments stated that the risk of CV mortality was not adequately determined at baseline. Some comments

stated that information on important baseline risk factors such as smoking and physical activity was not obtained and information on other risk factors was not sufficiently detailed. The comments implied that the risk of dying from CV causes may have been greater in the TOLB group because of differences in CV risk at baseline.

It is common practice in clinical trials to randomize patients to treatment groups in an attempt to achieve a reasonably balanced distribution of both known and unknown risk factors that might influence the study response variables. This approach was used in the UGDP study. The probability of obtaining a balanced distribution is dependent on the number of patients randomized to each group and the prevalence of the risk factors in the study population. By measuring as many risk factors at baseline as is feasible, the success of randomization in attaining a balance among the treatment groups can be determined.

The primary CV risk factors evaluated at baseline in the UGDP study were blood pressure, serum cholesterol, electrocardiogram (ECG) abnormalities, history of angina pectoris, and a history of digitalis use as an indicator of congestive heart failure. Secondary factors evaluated that might have been expected to influence CV mortality and morbidity included age, sex, body weight, family history of heart disease, and severity of diabetes as measured indirectly by FBG and SUM GTT.

Considerably more experience has been gained in evaluating CV risk factors in clinical trials since 1961 when patient recruitment was started for the UGDP study. Smoking history is such a risk factor, and admittedly it would have been preferable had it been obtained. Although mentioned in the comment, physical activity is difficult to quantitate and its importance as a CV risk factor is not clear. Additional information would also have been desirable about a history of hypertension and the use of antihypertensive medication, and on a history of previous myocardial infarction, which in some cases was detected by, and classified as, a significant ECG abnormality. The agency recognizes that the comparability of groups at baseline with respect to these risk factors cannot now be either established or denied. Nevertheless, a large number of baseline risk factors were identified and measured in the UGDP study, and although there were differences in the distribution of these risk factors, the differences were not major (see paragraph 37). Moreover, the

randomization procedure used for the study would be expected to lead to a generally balanced distribution of unmeasured risk factors among the treatment groups. Accordingly, the agency cannot view the failure to measure smoking and physical activity at baseline as invalidating the study findings.

24. One comment stated that there were poor definitions of angina pectoris, congestive heart failure, and the use of digitalis, thus implying that the ambiguities of these definitions may have obscured baseline differences in CV risk factors among the groups. Another comment stated that the definition of angina pectoris in the UGDP Annual Heart Examination Form (Form 13) would preclude angina from being properly recorded in patients who developed nonclassical forms of the syndrome. The comment noted that the form asked only whether the patient had experienced any attack of angina pectoris, which was further defined as pain located subinternally or in the left chest area and left arm coming on during the effort of walking and requiring the subject to slow or stop. Some comments stated that the use of digitalis is an inaccurate indicator of congestive heart failure because the drug may be used solely for an arrhythmia and is not used when congestive heart failure is treated with diuretics alone.

The agency recognizes that UGDP purposely included only classic symptoms of angina pectoris in the definition. It did not attempt to cover unusual forms, as they are more dependent on observer judgment and therefore subject to more variability. FDA views this as a reasonable judgment that does not detract from the design of the study. Developing a precise definition of congestive heart failure to be applied consistently in history taking by investigators is difficult and the absence of such a definition is not a serious design flaw. The findings of the study were reported as "history of digitalis use," not congestive heart failure, thus acknowledging that the two are not identical. The criteria were uniformly applied to the UGDP study population and, therefore, are not likely to have resulted in a prejudicial assessment of any one treatment group.

25. Several comments stated that the UGDP study criteria for risk factors were changed during the course of the study, as evidenced by the classification of abnormal ECG's. One comment noted that in a UGDP 6-year progress report prepared in 1966 (unpublished), 19.2

percent of all patients were reported to have had one or more major ECG abnormalities at baseline. The corresponding percentages for PLBO and TOLB groups were 15.2 and 24.0, respectively. In UGDP I (Ref. 1) published in 1970, "significant" ECG abnormalities as then defined were reported to have occurred in only 4.3 percent of all patients, and in 3.0 percent of PLBO patients and 4.0 percent of TOLB patients at baseline. The comment noted that significantly more TOLB patients than PLBO patients appeared to have had heart disease when entering the study according to the original ECG classification system. The comment further implied that the manner in which the classification criteria were changed preferentially reduced the number of TOLB patients classified as having major ECG abnormalities, thus essentially disguising the baseline differences between the TOLB and PLBO patients. One comment stated that the alteration of criteria during a scientific study is not generally considered acceptable.

The comment is correct that different criteria were used for classifying "major" ECG abnormalities in the UGDP 6-year progress report of 1966 and "significant" abnormalities published in UGDP I (Ref. 1) and later reports. The original UGDP protocol included technical instructions for taking ECG's but did not include criteria for classifying the findings (Ref. 31). These were developed later by UGDP staff and consultants. Professor Jerome Cornfield, a participating statistical consultant for UGDP, responding in a 1971 report to previous criticism about changing ECG classification criteria, stated that: "... the ECG classification was being used while Dr. Henry Blackburn, one of the study's advisors on ECG's, was revising the Minnesota Code and relating the various abnormalities to prognosis in Framingham. The abnormalities believed to be most closely related to prognosis were the ones used in the final *Diabetes* report." (Ref. 32.) The Cornfield report also included a table listing the percent of patients with various specified ECG findings in each treatment group at the beginning of the study. These data allow the reader to classify the ECG findings in other ways.

The agency believes that the ECG classification of significant abnormalities used in the published UGDP reports is an appropriate prognostic indicator of cardiovascular morbidity and mortality, and that it is thus reasonable to rely on it. Nonetheless, the agency agrees that changing the classification criteria

during the course of a study is to be avoided unless there are very compelling reasons for such changes. FDA acknowledges as well that the significance of the somewhat higher incidence in the TOLB group of ECG abnormalities classified according to the original system, which included less severe abnormalities, is not clear but does not believe that conclusion requires rejection of results based on the later classification system.

26. Several comments stated that the fixed dose of 1.5 grams tolbutamide daily is a departure from the standard clinical practice of adjusting drug dosage depending on the degree of blood glucose lowering obtained. One reference (Feinstein), for example, noted the "... repetitive dose of hypoglycemic agents that might have been too high for some patients or too low for others" (Ref. 9, p. 171).

The agency believes that this criticism cannot negate the mortality findings of the study. The agency agrees with the comment by the Biometric Society committee that "the use of a fixed dose of drug, which was also the approach adopted by Feldman et al. and Keen and Jarrett, limits the generalizations about therapeutic effects, but because the dose of tolbutamide is about equal to the average recommended for therapeutic use, an evaluation of its possible toxic effect is highly relevant." (Ref. 25).

The 1.5 gram dose of tolbutamide was well within the recommended starting dosage of 1 to 2 grams daily and below the recommended maximum of 3 grams daily. While failure to adjust drug dosage upward based on blood sugar levels might have led to a failure to detect a benefit of tolbutamide, it does not provide an explanation for the observed unfavorable effect of the drug on CV mortality compared to the placebo group, which received no hypoglycemic drug.

With regard to the criticism that the dosage of tolbutamide was too high in some patients, the agency advises that the UGDP protocol provided for modification of treatment if patients experienced hypoglycemic episodes, a manifestation of an excessive pharmacologic effect (Reference 2, p. 807). Thus, there was an escape clause to the fixed dosage regimen. Furthermore, in the patients not demonstrating excess pharmacologic effects, there is no reason to believe, given the relatively moderate dosage employed in the UGDP study, that adverse CV effects could have occurred only in those patients who may have maintained blood sugar control on the UGDP dose, and not in those whose blood sugar would have risen if the

tolbutamide dose had been decreased (i.e., tolbutamide dosage "not too high").

The UGDP investigators have also pointed out (Ref. 33) that patients in the PLBO group had a higher mean FBG level throughout the study and, thus, might be expected to have higher mortality than the TOLB group. Yet the PLBO group had a lower mortality rate. They have also noted that although TOLB and ISTD groups had similar FBG responses over time, the ISTD patients had a lower CV mortality. These observations also suggest no clear correspondence between mortality and FBG levels in the UGDP study. The lack of adjustment of drug dosage for FBG control thus should not have significantly affected the mortality findings.

27. Several comments stated that clinics must have varied in the manner in which they treated patients as evidenced by differences in mortality rates among the clinics. One comment stated that there seemed to be differences among clinics in the handling of elevated blood glucose and that some clinics tended to prescribe alternate therapy earlier than other clinics. One comment stated that it would be a serious error to judge a drug to be responsible for the differences observed if clinics had admitted, managed, or accounted for patients differently.

The agency advises that the UGDP study was planned as a multiclinic trial with a common protocol. The protocol included criteria and guidelines for admitting and managing patients during the study. Patients had to be willing to discontinue their previous hypoglycemic therapy and to accept any of the treatments under study, and physicians were to exclude patients who were judged unsuitable for random assignment to any of the treatment groups including diet alone.

The diabetic treatment received by each patient was established when patients were randomly assigned to treatment groups. Those treatments were a fixed number of tablets for the TOLB and PLBO groups and a standard dose of insulin based on estimated body surface area for the ISTD group. Physician judgment determined the amount of insulin to be given patients in the IVAR group to maintain "normal" blood glucose. All groups were prescribed a diet with a fixed percentage of carbohydrate, fat, and protein; the number of calories was to have been determined at each followup examination based on achieving and maintaining body weight within specified limits. Physicians also had to judge whether a fixed treatment

schedule should be altered. They were advised by the UGDP protocol not to take patients off allocated treatment schedules solely on the basis of glycosuria or hyperglycemia, but they were advised to do so if the patient developed serious signs or symptoms of uncontrolled diabetes.

There may have been differences between clinics in those aspects of treatment requiring physician judgment, e.g., the selection of patients in meeting entrance criteria, the amount of support and encouragement for maintaining a diet and determination of the point at which a patient on a fixed treatment schedule should be switched to variable insulin. These judgments, however, should have been equally applied to the treatment groups during the double-blind portion of the trial, and there is no evidence of biased judgments affecting a specific treatment group. The agency concludes that a difference in patient management among clinics does not offer a reasonable explanation for the observed higher CV mortality in the TOLB group.

28. One comment stated that patients in the TOLB group whose blood glucose was poorly controlled were managed differently from those in the PLBO group. This was based on an analysis of the patients in each group who died and who at some time during the study had a FBG greater than 200 mg/dL. The comment claimed that 5 of 6 PLBO patients had been transferred to insulin therapy but none of 12 TOLB patients had received insulin. The comment alleged that it was not believable that this could have occurred by chance alone in a truly double-blind study.

The comment's analysis is limited to data for the subset of patients who died and cannot support the premise that patients were poorly controlled. FDA believes the criterion of a single FBG greater than 200 mg/dL gives incomplete information about the management of the TOLB and PLBO groups. Data on each treatment group as a whole show insulin to have been administered to similar percentages of patients in the treatment groups. UGDP published the information that 32 of the 205 PLBO patients (15.6 percent) and 23 of the 204 TOLB patients (11.3 percent) had received a prescription for insulin for at least 1 followup examination before the discontinuation of tolbutamide in the study (Ref. 5, p. 115).

Information that a patient had an FBG greater than 200 mg/dL at some time during the study is potentially misleading for judging whether or not insulin should have been used. The UGDP investigators were advised in the

protocol that elevated FBG levels alone were not sufficient reason to take patients off the allocated treatment schedules. Other signs and symptoms of hyperglycemia, not apparently considered by the comment, were also considered necessary to justify the change in treatment. Moreover, it would not be surprising that tolbutamide, which is known to mitigate hyperglycemia in some patients, would be more successful than placebo in minimizing the need for added insulin.

The agency has reviewed the data submitted by the comment and, based on the updated tabulation of deaths in Table 1 in this preamble, finds that 10 of the 23 PLBO patients who died and 14 of the 30 TOLB patients who died had a FBG greater than 200 mg/dL at some time during the study. Five of the 10 (rather than 6) PLBO patients and 2 of the 14 (rather than 12) TOLB patients had received insulin at some time. While the difference is not as great as that claimed in the comment, detailed reasons for the difference are not available. It would, however, be the expected outcome if tolbutamide were partly effective in controlling symptoms and signs of uncontrolled diabetes. Nonetheless, such a difference in a subgroup selected post hoc for analysis is not convincing evidence of a breakdown in the blinding process. Nor can it be fairly concluded, given the lack of effectiveness of insulin in preventing CV mortality as shown by the data in this study, that the comment has provided a reasonable explanation for the observed increased mortality in the TOLB group.

29. A number of comments stated that no plans were made to treat variables, other than hyperglycemia, which might predispose a patient to CV disease. Examples given included smoking, hypertension, and hyperlipidemia.

Uniform treatment of conditions known to be risk factors for CV mortality might be used in a study in an attempt to reduce variability among treatment groups. The UGDP, however, elected to allow such conditions to be treated by patients' local physicians rather than by the UGDP investigators, with the expectation that variation in management of these conditions would be reasonably balanced among the treatment groups in view of the randomized, double-blind study design and the number of patients involved. The agency does not view the UGDP's decision as unreasonable, particularly when specific controls would have added to the complexity and difficulty of conducting the UGDP study.

Moreover, as reported in UGDP VI (Ref. 6), results of followup

examinations for cholesterol levels and blood pressure showed that PLBO patients had a greater increase in serum cholesterol levels compared to baseline and of those patients not classified as hypertensive at baseline a larger percentage in the TOLB group had elevated blood pressures and were treated for hypertension. These results do not support a hypothesis that PLBO patients were treated more vigorously than TOLB patients for hypertension or hyperlipidemia.

30. One comment observed that 60 percent (18 of 30) of TOLB patients who died were more than 25 percent over ideal body weight, whereas only 29 percent (8 of 21) of PLOB patients who died were similarly overweight, suggesting that diet therapy was pursued more vigorously in the PLBO patients and that blinding of the treatment groups was not complete.

As was pointed out in paragraph 28, an analysis of the subset of patients who died gives incomplete information about the management of the entire group. The degree of obesity in the PLBO and TOLB groups appeared to be about equal at baseline; the mean body weights relative to ideal body weights for the PLBO and TOLB groups were 1.32 and 1.33, respectively. Data published by UGDP (Ref. 3, p. 1405, Fig. 3) show that during the last available year of followup (quarters 16 through 19), the average percent change in relative body weight from baseline was about minus 2 percent for the PLBO group and plus 1 to plus 2 percent for the TOLB group. The significance of these relatively small differences in body weight that developed during the study is not clear, but they do not, by themselves, establish that diet therapy was pursued more strongly in one group than another. There is, moreover, no apparent basis for ascribing these differences to incomplete blinding.

31. One comment questioned the accuracy with which data were collected in the various clinics and stated that the day to day work was frequently done by junior staff or temporary personnel with less maturity and clinical judgment in the evaluation of complications and side effects than the principal investigators.

FDA views the enlisting of other staff by a principal investigator for assistance in carrying out a clinical trial as common and acceptable practice. These support staff are accountable to the principal investigator, who has the responsibility for maintaining the quality of the work. The agency finds no basis for assuming that erroneous data were submitted because junior staff or

temporary personnel were used in conducting the study.

II. Findings and Interpretations

32. A number of comments stated that pooling of data from clinics was not justified because the patient populations were not homogeneous, examples being that there was great variation in CV mortality among the clinics, and that the excess CV mortality in the TOLB group occurred only in two or three clinics.

The agency believes that the UGDP study has many features that support the appropriateness of pooling. The study was planned as a multiclinic trial with criteria for admitting patients under a common protocol. Some differences among the clinic populations with respect to baseline characteristics and end-point rates are to be expected and do not necessarily preclude pooling. Patients were randomized within clinics and approximately equal numbers were assigned to PLBO and TOLB groups within each clinic. Further, the study shows reasonable consistency in the direction of treatment effects across clinics. The excess in CV deaths in the TOLB group was evident in the majority of clinics in which the numbers of deaths were sufficient for evaluation.

The Biometric Society committee evaluated specifically the criticism that the excess CV mortality appeared in only a few clinics (Ref. 25). The committee considered CV mortality rates based on the number of patients assigned to each treatment group and the duration of followup within each clinic. Nine of the 12 clinics had at least 1 CV death in the PLBO group or the TOLB group. The TOLB group had the higher CV mortality rate in seven of these nine clinics. The Biometric Society committee concluded, and FDA agrees, that the excess mortality associated with tolbutamide was thus not confined to only a few clinics.

33. Several comments questioned the handling of dropouts in the UGDP study in that they were included in the analysis and were counted as members of the treatment group to which they were originally assigned.

The agency recognizes that there is no universally agreed upon solution to the problem of how dropouts in a clinical study should be analyzed. Nonetheless, there is substantial support for the view that eliminating dropouts introduces a possible source of bias into the comparability of randomized groups. The agency agrees with the statement by Cornfield that the practice followed by UGDP is conservative in that it dilutes whatever treatment effects, beneficial or adverse, are present (Ref.

32). See, also, the response to the comment in paragraph 34.

34. Several comments questioned the results of the UGDP study on the basis of a lack of adherence to the treatment regimen. Some comments stated that the analysis by the Biometric Society committee showed that only 26 percent of all patients were treated throughout the study with the form of therapy originally prescribed, and that 23 percent of all patients received the originally prescribed therapy for less than half the time they were enrolled in the study. Other statistics were also quoted, including the number of PLBO and TOLB patients who died and were not adhering to the originally assigned therapy at the time of death.

The agency notes that the comments are factually correct, but it does not agree that they provide a basis for dismissing the results of the study. Complete adherence to protocol is not to be reasonably expected in a large scale multiclinic trial in which the average time in the study was over 6 years. The Biometric Society committee also reported that 70 percent of the PLBO group and 74 percent of the TOLB group continued the prescribed treatment for at least 75 percent of the followup time (Ref. 25). FDA views these compliance rates as sufficient given the length of the study.

Moreover, study analyses taking adherence into consideration do not show any weakening of the association of tolbutamide use with increased CV mortality. Cornfield (Ref. 32) analyzed the mortality experience of patients with high adherence (medication taken in the dosage specified for at least 75 days in each 3-month quarter for at least 75 percent of quarters). Cornfield found that the percentage of patients dying from CV causes for the TOLB group was fourfold higher than for PLBO patients, compared to a 2½-fold difference when not subgrouping the patients for therapy adherence. The cumulative CV mortality after 8 years for TOLB patients with high adherence is almost sixfold higher than for PLBO patients, compared to the threefold difference when not considering adherence. Cornfield also urged caution, however, in interpreting the results of comparisons based on patients with good adherence because the original comparability provided by randomization may be impaired by this post hoc procedure.

The Biometric Society committee also reanalyzed the UGDP data to evaluate the effects of nonadherence. A relative allocation method was used in which each patient was counted at risk for treatment, including placebo, only for the period the treatment was taken. If a

patient died who had been on more than one treatment during the study, fractions of a death were assigned to each treatment based on the proportionate length of time on that treatment. Based on this method of allocating numbers of both patients and deaths to treatment groups, the CV mortality associated with tolbutamide was highest among the four assigned treatments, regardless of whether the treatments were pursued with or without modification of the dose. For those patients without dose modification, a comparison of the CV mortality indicates that the increased mortality in the TOLB group compared to the PLBO group was statistically significant at the $p=0.015$ level.

The Biometric Society committee also analyzed the data using a method that takes into consideration the effect of clinics, demographic variables and baseline variables, as well as the proportion of time patients received each medication. The results using this approach to the problem of nonadherence were consistent with those based on the relative allocation method in showing a significantly higher CV death rate in the TOLB group compared to the PLBO group, particularly among women.

35. One comment stated that the multiple regression adjustment model used by UGDP was faulty because weights assigned to each of 17 identified variables based on the association of that variable with mortality in the study gave 2 "seemingly irrational" results, i.e., that lower diastolic blood pressure and lower body weight are associated with greater probability of death.

The agency concludes that, notwithstanding the comment, this model does provide an acceptable method of analyzing the data to evaluate the effect of differences in baseline variables on mortality. Cornfield states that this model seems to be the most useful method that has emerged in CV epidemiology (Ref. 32). Cornfield acknowledges that the associations noted by the comment are unexpected, but points out contrary to the findings for diastolic blood pressure noted in the comment, higher systolic blood pressure and higher combined systolic and diastolic blood pressure were associated with increased probability of death as would be expected. Cornfield also reported that the relationship observed with regard to body weight is not inconsistent with data from the Framingham study, which showed that, particularly in women (who comprised about 70 percent of the patients in the UGDP study), increased body weight is less important than other CV risk factors.

The agency agrees that these described associations are at variance with other reports in the literature, but they are relatively minor anomalies. The agency does not agree that two possibly spurious associations of this type indict the multiple logistic regression model itself. The Biometric Society committee also considered the multiple logistic regression model to be suitable, and it performed additional analyses using that method (Ref. 25).

36. Several comments stated that UGDP did not consider synergism between risk factors in assessing the effects of baseline variables on CV mortality. The Biometric Society committee also stated that UGDP did not try to determine whether interactions were present in the data (Ref. 25).

The agency acknowledges that synergism between risk factors is a possibility but also recognizes the difficulty in analyzing for such interactions when multiple risk factors are involved. The agency does not believe significant weight should be given to the lack of such an analysis. The problem of multiple risk factors is considered in conjunction with paragraph 37 below.

37. One comment stated that the TOLB patients appear to have been at greater risk than the PLBO patients. Several other comments stated that the groups were not comparable at baseline for CV risk factors. The comments pointed out, for example, that of 13 individual baseline risk factors analyzed in UGDP II (Ref. 2, Table 6, p. 799), 10 were more frequent in the TOLB group than in the PLBO group.

The UGDP investigators observed that the difference in frequency of risk factors between these two groups was small (Ref. 2, p. 800). They also reported that the percentages of PLBO and TOLB patients who had none of five specified CV risk factors were very similar (PLBO 52.7 percent, TOLB 52.1 percent). The CV risk factors specified were hypertension, history of digitalis use, history of angina pectoris, significant ECG abnormality, and cholesterol 300 mg/dL or higher. Considering eight CV risk factors (adding arterial calcification, age 55 years or older, and a ratio of actual to ideal body weight of 1.25 or higher), Cornfield observed that 15.1 percent of the PLBO group and 13.2 percent of the TOLB group had none of these factors (Ref. 32). Cornfield found the mean number of risk factors per patient to be 1.65 for the PLBO group and 1.92 for the TOLB group.

The agency believes that it would have been surprising if the distribution

of CV risk factors in the two groups were equal in every respect. The real issue is whether the differences in CV risk factors at baseline are likely to have influenced significantly the mortality results. To evaluate the influence of individual baseline risk factors, UGDP compared CV mortality in groups of TOLB and PLBO patients with and without each of 13 risk factors (Ref. 2, p. 801). Of the 26 comparisons of TOLB and PLBO patients (i.e., a comparison of patients with and without each of the 13 risk factors), CV mortality was higher in the TOLB group in 23 pairings and equal to the PLBO group in 2 pairings. Thus, the CV mortality was higher in the PLBO group in only one pairing. The UGDP investigators also found the CV mortality rate was higher in the TOLB group (9 percent) than in the PLBO group (2 percent) in the subgroup of patients having none of the five major risk factors they identified. In addition, Cornfield reported mortality by number of risk factors per patient (Ref. 32). In the six subgroups having zero to five risk factors per patient, the CV mortality was higher in the TOLB group in all but one.

To assess the effects on mortality of differences in the distribution of baseline variables among treatment groups, the UGDP investigators, Cornfield, and the Biometric Society committee also used the multiple logistic regression model. In this model, a weight was assigned to each of the identified variables based on the association of that variable with mortality in the study. Using 17 variables, which include the 13 baseline variables in Table 6, UGDP II (Ref. 2, p. 799), Cornfield calculated the expected number of CV deaths in the PLBO group to be 10.0 and in the TOLB group to be 10.7 (Ref. 32). The numbers of CV deaths observed, however, were 10 PLBO and 26 TOLB.

Thus, although it has been generally recognized that there were differences in the distribution of CV risk factors identified and measured at baseline, the agency agrees with the substantial body of opinion that these differences were not major. The analyses of individual groups with and without each risk factor and the multiple regression analyses indicate that the excess CV mortality cannot be attributed to these differences.

38. The findings of UGDP were challenged by several comments which stated that the absence of deaths due to myocardial infarction in the PLBO group is evidence that the CV mortality rate in the PLBO group was spuriously low.

The data do not support the comment's assertion that there

necessarily was an absence of deaths due to myocardial infarction in the PLBO group. The criteria for attributing the cause of death specifically to a myocardial infarction in the UGDP study were fairly restrictive. The diagnosis was made only if supported by ECG changes and increases in serum enzymes during the terminal course of the illness, or if the events leading to death were clinically compatible with the diagnosis and autopsy findings provided evidence that a myocardial infarction was the principal cause of death.

Another category of deaths included within the cardiovascular classification was that of sudden death. As noted by Prout (Ref. 34), some deaths classified as sudden death may in fact have been caused by a myocardial infarction, but the information available was not sufficient to make the more specific diagnosis. A death was classified as sudden death if it occurred within 3 hours of the onset of symptoms in an otherwise clinically stable patient and in a manner that was consistent with a CV event (Ref. 2, p. 790). Four CV deaths in the PLBO group were classified as sudden deaths, making it at least likely that some may have been attributable to myocardial infarction.

Evidence that the occurrence of myocardial infarctions was not absent in the PLBO group is also provided by an analysis of the data for "myocardial events," in which nonfatal myocardial infarctions as well as myocardial infarction deaths and sudden deaths are considered (Ref. 3, Table 5, p. 1134). The proportion of patients having such myocardial events was 10.7 percent for PLBO, 13.7 percent for TOLB, 11.0 percent for ISTD, and 12.3 percent for IVAR; it was somewhat lower in the PLBO group, but not strikingly so.

The agency concludes, therefore, that the comment's hypothesis regarding CV mortality rate based on an analysis of deaths ascribed solely to myocardial infarction as defined by UGDP is not proved.

39. One comment stated that a spuriously low PLBO CV mortality rate was indicated by an anomalous sex ratio for deaths in the PLBO group (Refs. 23 and 24). The comment stated that CV death rates of men compared to women in the PLBO group was five to one, but CV death rates were the same for both sexes in the other three treatment groups. This finding was cited as being inconsistent with reports and clinical experience of an equal or greater incidence of CV disease or deaths in diabetic women compared to diabetic men and, specifically, with the 42 percent higher CV death rate in PLBO-

treated women in the Bedford study. In addition, it was noted that the CV death rate in PLBO-treated men did not differ significantly from that of men in the other groups, whereas the CV death rate in PLBO-treated women was lower than that of women in each of the other three treatment groups. Thus, it was contended that the CV mortality rate in PLBO-treated women subjects is spuriously low and results in a false impression of increased rates in the other treatment groups.

The agency did find a lower CV mortality rate for women in the PLBO group, but does not view the difference as indicating that the CV mortality rate in the PLBO group was spuriously low. Although the difference in CV mortality rates between men and women was greater in the PLBO group, the lower rate for women was not limited to the PLBO group. The rate for women was less in fact than that for men in each treatment group, and for the four groups combined, by a factor of two. Selection criteria for enrolling patients in the UGDP study may have contributed to a relatively lower CV mortality in women, i.e., diagnosis within 1 year of entry and expected 5-year survival. The tendency for diabetes to produce equal CV mortality rates between men and women seems likely to be related to longer duration of diabetes. The duration of diabetes for patients in the UGDP study, even those followed up an average of 6 to 7 years after diagnosis, would likely be shorter than the average duration in the general population of diabetics. Moreover, the reliability of the observed differences in sex ratio is limited by the small number of men in each treatment group.

As noted in comment 60, these were significant differences between the Bedford study and the UGDP that limit their comparability. In any event, as reported in a 1974 publication (Ref. 35), the CV mortality rates in the placebo group of the Bedford trial were 16.2 percent in men and 14 percent in women. Thus, the CV death rate for placebo-treated women in that study was 14 percent lower than that for men, rather than 42 percent higher, as noted in the comment.

40. Several comments stated that the observed PLBO CV mortality rate was spuriously low, probably as a random event without clear explanation. These comments analyzed the CV mortality in the PLBO and insulin groups before tolbutamide was discontinued ("tolbutamide phase") and for about 5 years after tolbutamide was discontinued ("insulin phase"). Comments pointed out that PLBO CV

mortality increased during the "insulin phase" of the study to twice what it was during the "tolbutamide phase" whereas CV mortality in the insulin-treated patients was about the same for the two phases. On this basis and because total CV mortality rates as reported in UGDP VII (Ref. 7) for the "tolbutamide" and "insulin phases" combined were about the same in the PLBO and insulin groups, it was argued that the PLBO CV mortality rate during the "tolbutamide phase" was spuriously low due to random fluctuation.

The agency agrees that the CV mortality rate in the PLBO group during the 5.2 years after termination of the double-blind part of the study was higher than during the earlier "tolbutamide phase" (see Table 2).

TABLE 2.—NUMBER OF DEATHS IN "TOLBUTAMIDE PHASE" AND "INSULIN PHASE"

	Number of patients enrolled	"Tolbutamide Phase" 1961-10/7/69 ¹		"Insulin Phase" 10/7/69-12/31/74	
		CV	Total	CV	Total
PLBO	205	10	23	19	31
TOLB	204	26	30		
ISTD	210	15	22	12	26
IVAR	204	16	22	13	27

¹ Patient recruitment into study lasted from February 1961 to February 1968. About one-half the patients had been admitted by the middle of 1963.

The agency considers the relatively higher mortality rate in the PLBO group during the "insulin phase" to be an unexpected finding that tends to suggest that mortality in the PLBO group during the "tolbutamide phase" may have been spuriously low. The agency approaches this interpretation with some caution, however, because these periods were not intended to be compared under the study design. Furthermore, even if the number of CV deaths in the PLBO group during the "tolbutamide phase" were arbitrarily increased by five or six to make the pattern of mortality in the PLBO group similar to that in the insulin groups, there would still remain a clear difference in CV mortality between the PLBO group and the TOLB group during the "tolbutamide phases." The statistical significance of this association would be considerably weakened, however.

The Biometric Society committee also acknowledged that it would have been easier to interpret the findings if the study had been continued longer and there were more data on mortality (Ref. 25). The committee stated: "We do not criticize the UGDP investigation for having made the decision when they did. Nevertheless, the result of that decision is to leave us some residual uncertainty about the meaning of the findings, a point that is well understood by the UGDP investigators themselves."

It is undisputed that ethical considerations led to discontinuation of the tolbutamide treatment before the results of the study were established with certainty, and subsequent mortality data have tended, as noted above, to weaken rather than strengthen the originally reported association. The agency has taken this "residual uncertainty" and the subsequent mortality experience into consideration in its overall judgment on the strength of the association between tolbutamide use and increased CV mortality observed in the UGDP study (see Supplementary Information section preceding comments).

41. One comment challenged the interpretation that the observed increased CV mortality in TOLB subjects indicated cardiotoxicity by pointing out that no "low risk" TOLB patients died from CV disease. Several other comments suggested that there was no difference in the frequency of CV deaths in the TOLB and PLBO groups in patients with none of several specific risk factors, as analyzed by Cornfield.

The comment included a table on CV mortality using information reported in UGDP I and II (Refs. 1 and 2), with patients subgrouped into newly defined risk categories. Classification into low, medium, and high risk was based on the presence of none, one, or two risk factors, which included defined measures of SUM GTT, blood pressure, cholesterol, and body weight. In addition, any patient with a history of angina, treatment with digitalis, or an abnormal ECG was classified as high risk. The risk criteria for cholesterol values (greater than 250 mg/dL) and blood pressure (greater than 140/90) were, however, quite different from those of the UGDP. In addition, one risk factor (baseline SUM GTT 750 mg/dL or greater) is added without documentation of its being a known risk factor. Body weight 25 percent or greater than ideal weight was also added as a risk factor. As a result of the reclassification, nine of the TOLB CV deaths considered to have zero risk factors under the UGDP criteria (Ref. 2, pp. 827-828) were reclassified into higher categories. For example, three subjects whose sole risk factor was a baseline SUM GTT of 750 mg/dL or greater and two patients whose sole risk factor was a baseline cholesterol level greater than 250 mg/dL but less than 300 mg/dL were classified as "medium risk" by the comment.

The agency does not believe that the reclassification approach suggested in this comment provides a valid explanation for the increased CV

mortality in the TOLB group. Furthermore, the significance of such reclassification is diminished because the reclassification and subgrouping were done after the data had been analyzed previously and because relatively small numbers of patients remain in the subgroups. In addition, the results of a similar analysis by Cornfield in low risk patients did not support the conclusions of the comments (Ref. 32).

Cornfield reported that in the subgroup of patients having none of the five CV risk factors identified by the UGDP, 2 percent of the PLBO group and 9 percent of TOLB group died of CV causes. Among those patients with none of seven CV risk factors (the five identified by UGDP plus obesity and arterial calcification, two additional risk factors suggested by Schor (Ref. 10)), there were 2.6 percent and 10 percent CV deaths in the PLBO and TOLB groups, respectively. The numbers of patients on which these percents are based are small (39 and 40 patients, respectively) as are the number of deaths (1 and 4, respectively). Cornfield stated, "although * * * no one would draw sweeping conclusions from them, the fact remains that the excess CV mortality among patients assigned to tolbutamide persists" (Ref. 32.)

42. One comment stated that FDA audit information shows that the cause of death of eight patients (FDA audit numbers 29, 32, 33, 35, 37, 46, 47, and 48) classified as CV deaths in the TOLB group may have been misclassified.

The agency disagrees with this comment. In the UGDP study, the cause of death was assigned by the chairman of the Mortality Committee, in some cases in consultation with a pathologist (together comprising the mortality review team), without knowledge of the treatment group to which the patient had been randomized. The cause of death assigned was judgment made on the basis of the UGDP death forms filled out by the clinic physicians. Death certificates, autopsy reports when available, and case summaries or other information were provided by the clinic physicians, also without knowledge of the assigned treatment group. Assignment of the cause of death thus was based on different kinds of information in different cases, and the agency recognizes that differences of opinion can arise when such information is reviewed by different persons. The agency believes more weight can be given to a judgment of the cause of death when made without knowledge of treatment groups, as was done by UGDP, than that which can be given to judgments made on selected deaths in

which the treatment in known, thus introducing the possibility of bias in the judgment.

The FDA audit compared the information submitted to the UGDP Coordinating Center by clinic physicians with the causes of death assigned by the UGDP review team and those published by UGDP. Although the FDA audit team did not rejudge and tabulate each death assignment, all deaths including the eight deaths cited in the comment were reviewed and major discrepancies were not found between the information provided to the Coordinating Center and the causes of death assigned by UGDP. Moreover, the comment has presented the available information incorrectly in at least two cases, which are detailed below:

With respect to FDA audit patient number 29 the comment states: "The audit analysis reveals no clinical mention of myocardial infarction, and no autopsy was performed. The patient has uremia and arrhythmias at the time of death." Narrative summaries on all deaths were prepared by the FDA physician investigator who reviewed the UGDP death data in Boston. These summaries were included with the analysis report of the FDA audit as Exhibit IV. The summary for patient 29 reports that Form 11A (UGDP death form filled out by the clinic investigator) states the patient died of a myocardial infarction supported by ECG changes although enzyme studies were not done.

The comment also states that patient number 35 (classified by UGDP as sudden death) died in shock with a massive gastrointestinal hemorrhage, but no autopsy was performed, and clinical records do not cite a cause of death. The comment, however, does not take into account the FDA audit narrative summary, which states that the patient was hospitalized for massive upper gastrointestinal bleeding 9 months prior to death. The summary further states that the patient was reported by the son to have died suddenly (within 30 seconds) at home due to unknown cause, and thus the death appears to have been classified correctly by UGDP as a sudden death.

Based on its overall review of all deaths, the agency rejects the contention that the CV mortality findings of the UGDP study can be explained by misclassification of CV deaths.

43. A number of comments pointed out that more autopsies were performed on patients who died in the TOLB group (15 of 30) than in the PLBO group (6 of 21), and that the opportunity of assigning a CV cause of death, therefore, was greater in the TOLB group.

The agency rejects this criticism as an explanation for the larger number of cardiovascular deaths in the TOLB group. The number of autopsies is small and no data were presented in the comment to support the underlying assumption that cause of death is more likely to be classified as CV if an autopsy is done. In reviewing the death information available for the 13 deaths classified as CV in the TOLB group that were autopsied, there appears to be only one case (FDA audit No. 33) where the cause of death might have been assigned to a noncardiovascular category (cancer) if a myocardial infarction had not been found at autopsy. Thus, the number of deaths in the TOLB group classified as CV deaths solely on the basis of autopsy findings is not significant.

44. Several comments criticized the rationale for the CV grouping of deaths on the basis that no single mechanism of action explains how the drug could lead to an increased number of deaths within such a heterogeneous grouping.

The agency rejects this comment. Despite the apparent heterogeneity of the CV grouping, several theories can reasonably associate CV death with tolbutamide use. It has been suggested that tolbutamide could promote cardiac arrhythmias occurring in the course of myocardial infarctions and thereby increase the fraction of patients dying as a result of acute myocardial infarction. It is also possible that oral hypoglycemic drugs could adversely affect either blood vessels directly or hematologic factors that influence, for example, thromboembolic processes. Although the CV grouping of deaths did include a small number of cerebrovascular deaths, the majority were related to cardiac causes. Sudden death, defined in the response to paragraph 38, was classified as CV and likely included primarily cardiac deaths, although it may have included some cerebrovascular deaths. Other than cerebrovascular and cardiac deaths, only one death in the CV category in each of the four treatment groups was attributed to rheumatic heart disease and one death in each group was assigned to pulmonary embolism; thus these deaths did not contribute to a grouping of an unusually large number of CV deaths within one treatment group. There was also one death due to diabetic gangrene, which occurred in the PLBO group, and one death in the ISTD group was assigned the somewhat unusual diagnosis of extracardiac vascular disease, lacunar state (a cerebrovascular event).

Subgrouping cardiac causes of death to include the more homogeneous grouping of myocardial infarction, sudden

death, and death due to arteriosclerotic heart disease also results in an excess of these deaths in the TOLB group. There were 4 such deaths in the PLBO group, 18 in the TOLB group, 8 in the ISTD group, and 11 in the IVAR group.

45. Several comments stated that reclassifying only a small number of deaths would change the statistical significance of CV mortality. One comment stated that if three PLBO deaths were reclassified to CV and three TOLB deaths reclassified to non-CV, the significant differences in CV mortality would disappear. Several other comments referred to the statement by the Biometric Society committee that "If there were subtle cues that could lead to somewhat different recording of signs and symptoms for different groups, it is conceivable that deaths of uncertain cause might be more likely to be assigned to a cardiovascular cause in the tolbutamide and phenformin groups than in the other" (Ref. 25).

The agency advises that the Biometric Society committee report also stated that "The UGDP took unusually strong measures to minimize the possibility of biased evaluation and took care to use well-defined end points in arriving at the diagnosis of cause of death. Nonetheless, the possibility of this sort of biased recording cannot be ruled out completely" (Ref. 25). The agency recognizes that changing the results of the UGDP study would not require that a large number of deaths be reclassified. Hypothetical shifts, however, cannot properly be invoked to alter the findings of the study. Presentation of the statistical probability that the results of a study could have occurred by chance is the usual method of attempting to communicate the significance of the study findings, and that has been done by UGDP in its reports on the study.

46. Several comments stated that there was no statistically significant difference in total mortality between the TOLB and PLBO groups and that the non-CV death rate was higher in the PLBO group. The comments stated that these facts should be mentioned in the labeling. Several comments also referred to the published criticism by O'Sullivan and D'Agostino, which stated that the UGDP investigators did not adequately adjust for altered odds that result from multiple testing which, along with the problem of stopping the study as a result of data inspection, can negate any significance attributed to the UGDP findings (Ref. 17).

Although mortality was referred to in the original protocol for the UGDP study, FDA acknowledges that the decision that CV mortality would be an

end-point for analysis and the development of criteria for determining the kind of deaths to be included in the CV category both occurred after the study was started. Nonetheless, the agency believes that attention to this specific end-point is not without justification. The objective of the study as stated in the original protocol was to "determine the relative effectiveness of four different treatment schedules in preventing the principal late complications of diabetes mellitus among diabetics able to live an asymptomatic life without insulin" (Ref. 31). The protocol further stated that the late complications of primary concern were retinopathy, cardiac and peripheral vascular disease, nephropathy, and possibly neuropathy.

In the final tabulation (see Table 1), there were 26 CV deaths in the TOLB group and 10 in the PLBO group. The probability that such a difference could have occurred by chance is .005 using a chi-square test (two-sided). While this probability estimate is well below the commonly accepted level of .05 for considering results to be "statistically significant," the agency agrees that this result must be interpreted cautiously because it is based on a secondary end-point developed and defined after the study was initiated. FDA also acknowledges that, unlike the results for CV mortality, there were only 4 non-CV deaths in the TOLB group while there were 13 non-CV in the PLBO group. This difference in total mortality (tolbutamide, 30; placebo, 23) clearly is not statistically significant with a probability value of 0.29 by the same chi-square test.

Although a statistically significant increase in total mortality was not observed, the agency also acknowledges that the use of tolbutamide was discontinued in the UGDP study because of the observed increase in CV mortality. Terminating the tolbutamide portion of the study on that basis limited the opportunity for the study to show an association between the drug and overall mortality.

Cornfield stated at the 1975 public hearing on the oral hypoglycemic labeling that no statistician would disagree with the observation that the interpretation of a probability value is obscured when the hypothesis to be tested is selected after inspection of the data as in the case of testing differences in CV rather than total mortality. Cornfield also commented, however, that a judgment that this is sufficient ground for rejecting the UGDP findings of an excess CV mortality would be an extreme one. The analysis by the

Biometric Society committee led to a statistically significant difference in mortality from all causes, as well as from CV causes, for tolbutamide-treated women, who outnumbered men in the study more than two to one.

On the question of CV mortality, the Biometric Society committee stated that the UGDP trial raised suspicions that cannot be dismissed on the basis of other available evidence, concluding: "We find most of the criticisms levelled against the UGDP findings on this point unpersuasive. The possibility that deaths may have been allocated to CV causes preferentially in the groups receiving oral therapy exists, and, in view of the 'nonsignificance' of differences in total mortality, some reservation about the conclusion that the oral hypoglycemics are toxic must remain. Nonetheless, we consider the evidence of harmfulness moderately strong." (Ref. 25.)

In summary, the agency believes that, because the finding of statistical significance for differences between the treatment groups is based on cause-specific mortality and not on total mortality, and that measurement of CV mortality was not specifically defined as an end-point at the outset of the study, the strength of the reported association between tolbutamide and CV mortality is subject to some uncertainty. The agency nevertheless agrees with the Biometric Society committee that, on balance, the reported association must be regarded as moderately strong. The statement included in the proposed labeling warning that a statistically significant increase in total mortality was not observed has been modified to read as follows: "A significant increase in total mortality was not observed, but the use of tolbutamide was discontinued based on the increase in cardiovascular mortality thus limiting the opportunity for the study to show an increase in overall mortality."

47. One comment stated that FDA should not require labeling changes associating CV death with the use of tolbutamide, but that it might be appropriate to contraindicate tolbutamide in diabetic patients when the FBG is in excess of 200 mg/dL. The comment stated that most diabetologists agree that treatment with tolbutamide is of questionable utility if FBG levels cannot be maintained below 170 to 180 mg/dL. The comment was based on an analysis of CV deaths in relation either to FBG values obtained on the last visit to the UGDP clinic or the mean values obtained for the last three visits. The comment noted that the CV mortality rate of TOLB subjects with FBG values

in excess of 200 mg/dL as defined in this analysis was greater than the rates in such patients in the other treatment groups, and twice that of TOLB subjects without such elevations. In addition, the comment noted that TOLB subjects without blood sugar elevations were not at increased risk of dying from CV causes when compared to similar subjects in the other three treatment groups. Thus, the comment concluded that tolbutamide prescribed in accordance with conventional guidelines does not appear to be associated with an increased risk of CV death. Portions of the comment apparently were mailed to a number of diabetologists and the agency received nearly 200 form letters supporting the comment's conclusion. (Other letters received by FDA in response to the mailing disagreed with the comment's conclusion.)

Based on data from the published analysis (Ref. 23), which has been updated with the additional deaths included in Table 1 in this preamble, the agency has calculated the difference in CV mortality between TOLB and PLBO subjects classified, according to the criteria in the comment, by FBG levels above and below 200 mg/dL (see Table 3).

TABLE 3.—CV MORTALITY RELATED TO FASTING BLOOD GLUCOSE LEVELS ABOVE AND BELOW 200 MG/DL

[CV deaths/number of subjects in group]		
	FBG less than 200	FBG 200 or higher
TOLB	15/151 (9.9%)	11/53 (20.7%)
PLBO	8/135 (5.9%)	2/71 (2.8%)
ISTD	11/150 (7.3%)	4/60 (6.7%)
IVAR	13/174 (7.5%)	3/30 (10.0%)

Although the proportion of CV deaths is relatively higher in the subgroup of patients with FBG levels of 200 mg/dL or higher, the TOLB group also shows a slightly higher proportion of CV deaths in the subgroup of patients with FBG's less than 200 mg/dL.

The agency also analyzed the data by the Empirical Logit Transform which allows statistical testing of FBG by treatment interaction to determine if the CV risk associated with tolbutamide use is significantly greater among patients with high FBG levels compared to lower levels. Based on this test, the data indicate that tolbutamide affects CV mortality to a greater extent in high FBG groups than low ones ($p=0.041$). There are, however, limitations on the usefulness of this finding. First, it must be interpreted cautiously because the hypothesis was generated after the data were examined. The agency recognizes,

however, that cautious interpretation also applies to some extent to conclusions about CV mortality because it is not entirely clear at what stage the CV death subgroup was defined.

Second, the FBG levels for categorizing patients were those obtained at the last one to three clinic visits prior to death, and thus represented a limited segment of the overall level of blood glucose control during the study. Third, the advantages provided by randomization are reduced when followup responses, e.g., FBG levels, are used to define patient subgroups and another response variable such as CV mortality is observed within the subgroup. Although there may be a stronger association of tolbutamide with CV mortality at higher FBG levels, the agency believes it would be inappropriate to conclude from this analysis that the risk associated with tolbutamide is limited solely to diabetic patients with high FBG levels. A statement that tolbutamide is not associated with increased CV mortality in patients with well-controlled FBS levels has therefore not been included in the warning required by this final rule.

48. One comment questioned the findings of UGDP on the basis that meaningful findings in a clinical trial should have clinical as well as statistical significance. The comment referred specifically to FDA statements made in connection with the Benlylin decision. (See, also, paragraph 7 above.)

The statements by FDA regarding Benlylin were made in reference to data concerning effectiveness, in which it was noted that statistically significant results might be obtained with large samples, even if the clinical benefits of the drug were trivial. The issues presented by the UGDP study are safety issues, and the agency concludes that a statistically significant increase in CV mortality, as was found in the UGDP study, has self-evident important clinical implications.

49. One comment stated that the patterns in the mortality data do not suggest drug toxicity because the 16 "excess" CV-related deaths in the TOLB group occurred from July 1966 to June 1968, but before and after that period the mortality rates parallel those of the PLOB group. The comment questioned how clinically or pharmacologically a drug could become toxic only after 5½ years and nontoxic again after 7½ years. The comment suggested, therefore, that the results could have been an artifact of the study rather than a property of the drug.

The agency advises that patients were recruited into the study at various times over a period of about 5 years. Deaths occurring in the specified interval of

calendar time, therefore, would include patients exposed to the drug for variable periods of time, not just 5½ to 7½ years. It was not until June 1963 (Ref. 1, Table 4, p. 750) that even a majority of patients (60 percent PLBO, 60.8 percent TOLB) had been enrolled. Thus, the comment's conclusions regarding patterns of mortality data fail to reflect the study's actual recruitment practices and cannot be substantiated. Even if all patients had been recruited into the study at the same time, grouping deaths chronologically and selecting an arbitrary time period that encompasses more deaths than other similar time periods does not appear to offer support for the conclusion that the deaths therefore are not likely to be drug related.

The UGDP investigators calculated cumulative annual mortality rates per 100 persons at risk using life table methods (Ref. 2, p. 791). Comparing the PLBO and TOLB groups, the increased CV mortality associated with tolbutamide is apparent beginning with the fourth year of exposure and continuing thereafter. Such a pattern in mortality data is not inconsistent with a drug serving as a risk factor with respect to CV mortality in the UGDP study population.

III. FDA Audit

50. Several comments stated that the FDA audit of the UGDP study was too narrow and superficial, and that it did not address critical issues such as study design, patient compliance, basic clinical care, cause of death, and recordkeeping. Several comments stated that patient records should have been audited at the individual clinics.

The reasons for conducting the audit, the objectives of the audit, and the results were published in the *Federal Register* of November 14, 1978 (43 FR 52732). The FDA audit of the UGDP study addressed two main questions: (1) Did the scientific papers published by UGDP accurately reflect the data that the Coordinating Center received from the physicians participating in the study, and (2) do any discrepancies found by the auditors affect the conclusions of the study? Sampling techniques were used to select data for the audit and no attempt was made to evaluate and reanalyze all data accumulated by UGDP. The audit was not designed to verify at the clinic level the data provided to the Coordinating Center by the clinic investigators. FDA did not consider that it was feasible or necessary to examine all aspects of the study or to examine data relating to every criticism of the study. Decisions about the scope and duration of the

audit were directed at obtaining the most useful information possible with efficient use of available resources. The agency, therefore, acknowledges that the scope of the FDA audit was not as broad as the comments suggest it should have been. Nonetheless, FDA believes that, within the limits of its defined scope, the FDA audit was thorough, detailed, and in no way superficial. Indeed, FDA finds that an audit of the type suggested would have been neither justifiable nor feasible.

51. One comment asked if data gathered in the field were accurately and honestly recorded and reported by the UGDP Coordinating Center. Several comments suggested that there may have been improper manipulation of data by the Coordinating Center and that the study might therefore be based on fraudulent data.

The FDA audit found very few errors and discrepancies between the data file at the UGDP Coordinating Center and the published reports (Ref. 28, see, e.g., p. 21 and appendix D), and the agency believes that these errors were inadvertent and might be expected in a study of this size and complexity. Of the 150 patient records examined at baseline, no differences between physician input into the Coordinating Center and the UGDP computer printout were found for age at entry, sex, race, weight, history of digitalis use or angina, systolic blood pressure, or assigned treatment. There were three discrepancies in height, one in diastolic blood pressure, and one in date of entry into the study (the day of the month was incorrect but the month and year were correct).

The cause of death assigned by the UGDP review team was a judgment made on the basis of the death forms filled out by the clinic investigators, death certificates, autopsy reports when available, and case summaries or other information provided by the clinic physicians in correspondence with the Coordinating Center. It was not the intention of the audit to make an independent judgment as to the cause of death, or to reclassify deaths, but rather to compare the causes of death submitted by the participating clinical centers to the Coordinating Center with the causes of death assigned by the UGDP mortality review team and with those subsequently published by UGDP. There were, in fact, 11 deaths in which the causes of death published by UGDP differed from those listed by the clinic physicians on the UGDP death forms and for whom the CV or non-CV classifications were different. In many cases, changes in the cause of death by

the review team were based on the decision to assign the underlying or principal cause of death rather than the immediate cause. The agency did review these changes in classification and found that, in general, the judgments made by the UGDP review team were reasonable judgments based on all the information available. Further, the agency found no evidence whatsoever of willful manipulation of data. In conclusion, the agency found few discrepancies as a result of its audit. The deficiencies that were found are not sufficient to invalidate the findings of the study with regard to CV mortality.

52. One comment stated that, in the 1975 proposal, FDA had admitted to seven basic scientific criticisms of the study (44 FR 28588), and attributed FDA's decision to audit the study to the failure of the Biometric Society committee review to answer these criticisms. The comment further stated that the audit was nothing more than a ministerial process and did not address the criticisms listed in the 1975 proposal.

The audit was not undertaken to address the criticisms referred to in the comment. Its purpose, rather, was to assess whether the data published by UGDP accurately reflected the data input to the Coordinating Center from the participating clinics. Further, the comment misrepresents the context of the criticisms of UGDP enumerated in 1975, and it has erroneously interpreted the agency's view of the audit. The agency viewed the evaluation by the Biometric Society committee as an important assessment of the biometric aspects of the study. Moreover, the Biometric Society did not ignore the criticisms cited in the proposal; the 1975 proposal summarized the views of the Biometric Society committee on these criticisms. Of the seven criticisms listed in the preamble to the 1975 proposal, two are given some weight and are discussed in this document in the Supplementary Information section preceding the comments. These two criticisms concern the comparability of the treatment groups with respect to CV risk factors at baseline and that other studies, although not as definitive as UGDP in design or size, have not shown trends in the same direction as the UGDP study.

53. Two comments referred to a statement in the audit that meaningful error frequencies could not be determined for technical reasons on 13 items (Ref. 28, p. 13 and appendix E). The comments expressed some uncertainty about the meaning of the statement and they suggested that it

raised some questions about the conduct of the study and the validity of the audit.

In the planning stages of the audit, a number of objective items, such as age, sex, height, weight, blood pressure, history of angina or digitalis use, cholesterol levels, or information about death, were suggested as examples for which the input into the Coordinating Center could be compared with the output to determine error frequencies. Data on these items were grouped to correspond to the different phases (and forms) of the study: baseline, interim, and death data. During the audit it became evident that some of the items were inappropriate for technical reasons and these items are listed in Appendix E of the audit. They are for the most part trivial and do not reflect on the design or conduct of the study; for example, 4 of the 13 items concerned data for desirable and relative body weight. The table used to determine desirable weight was based on height and used 1-inch increments. Height was usually measured in fractions of an inch at the clinics, however, and clinic physicians interpolated desirable weight from the table. The Coordinating Center used a more exact regression equation. Thus, minor differences of little significance were frequently encountered. Because there were no clear cut limits for defining errors, FDA's staff chose not to audit these items. Three other items, also not audited for technical reasons, were dates on three different forms prepared by the clinic investigators. The dates were not used because they had not been included in the Coordinating Center printout, which listed data entered by the number of the followup quarter. FDA's staff also decided not to audit data on cholesterol levels because retrieval of these records would have been difficult and time consuming. UGDP later provided these data (Klimt/FDA letter dated 12-7-77). The agency believes, therefore, that it was reasonable not to audit the 13 items and that this decision does not reflect negatively on the design or conduct of the study.

54. One comment stated that UGDP results are invalid because the FDA audit report provides evidence that UGDP failed to adhere consistently to appropriate methods of observation and recording. For example, FDA auditors disagreed with UGDP's reading of 17 baseline ECG's. The comment further stated that the ECG, one key parameter of CV disease, apparently involved a highly subjective analysis.

ECG's were scored according to a numbering system known as the Minnesota Code (Refs. 36 and 37; also

see paragraph 25 above). "Significant" ECG abnormalities were specific findings that were considered by the UGDP Coordinating Center staff and consultants to be the best prognostic indicators of CV morbidity and mortality. "Nonsignificant" abnormalities were the ECG findings for which the prognostic implications were less clear in the judgment of UGDP. As part of the FDA audit, the ECG's also were read by an FDA expert consultant according to the Minnesota Code, and they were classified as being normal or as having "significant" or "nonsignificant" abnormalities. Of the 147 ECG's examined, 8 involved a change of classification from "significant" to "nonsignificant" or vice versa and 9 were relatively minor and involved changing only the degree of the abnormality within the "significant" category. The readings by the FDA expert resulted in the reclassification of two ECG's in the PLBO group; one from significant to nonsignificant and the other from nonsignificant to significant. No ECG's in the TOLB group were reclassified. The other changes in classification occurred in the insulin groups. The use of specified reading criteria such as the Minnesota Code is a way of improving uniformity of reading and classifying ECG abnormalities, but even using the same code, different readers would not be expected to reach complete agreement. Each ECG comparison involves multiple point comparisons. The agency is aware of the differences found in ECG comparisons between UGDP and the FDA expert but concludes for the reasons expressed that they are both minor and justified, and do not provide evidence of a failure of UGDP to adhere to appropriate methods of observation and recording as suggested by the comment.

55. One comment stated that the FDA audit was unable to ascertain which medication a patient actually took or did not take, and that the data from the investigators's report forms (UGDP quarterly report Form 9) were not reviewed. The comment further stated that the auditors evidently attempted to determine only which bottle of medication was assigned to a patient and not whether the patient actually took the medication.

As previously stated in the response to paragraph 50, the audit was only intended to review selected data and not to evaluate all data accumulated by UGDP. A number of characteristics reported at selected quarterly examinations were audited, however, including the first and last quarters and randomly selected intermediate

quarters. Additional quarterly report forms were reviewed to document changes in therapy within a quarter. The quarterly report form provided information from the clinic investigator about treatment prescribed during the previous quarter, including daily units of insulin and the bottle number and number of tablets given for oral treatment. The clinic physician was, in fact, asked to state if treatment had been altered (either by the physician or the patient), the number of days during which the patient did not follow the prescribed treatment, and the reasons for the departure. The FDA audit also selected a sample of reports from clinic physicians to determine if treatment or medication changes were correctly reported by the UGDP Coordinating Center. Therefore, in disagreement with the comment, efforts were made both to review quarterly report forms and to determine whether adherence as reported by the clinic physician was correctly recorded by the UGDP Coordinating Center.

56. One comment stated that the FDA audit incorrectly reported that information on medication taken at the time of death appears on UGDP Form 11a (death form). The comment stressed that because this form does not contain such information the information examined by FDA is not clear.

The audit report states (Ref. 28, p. 13) that treatment at the last quarter observed was found on UGDP Form 9 (quarterly followup examination) for the quarter before death and not on Form 11a, as stated in the comment. The information does, in fact, appear on UGDP Form 9.

57. A number of comments stated that the FDA audit did not settle all the issues and that the "raw data" should be made available for additional analyses before the agency takes further action on the oral hypoglycemic drug product labeling. One comment stated that the audit revealed serious flaws and defects and the clear implication of the audit is that a thorough and in-depth review of the data would reveal further serious problems. Several other comments, however, expressed the view that additional analyses either would not be useful or would be impractical.

A major objective of the FDA audit was to assess whether the information ("raw data") received in the UGDP Coordinating Center from physicians participating in the study was accurately reflected in the computer printout and in the scientific papers published by UGDP. The agency disagrees with the comment's statement that the audit revealed serious flaws and defects in the UGDP study (see paragraph 51).

A significant amount of the UGDP raw data has been disclosed to the public. In addition to the data included in the numerous scientific articles published by the UGDP (Refs. 1 through 7 and 32, 33, and 34), a large amount of data has been released through the FDA audit and from the UGDP Coordinating Center itself. Exhibit V of the audit includes 639 pages of computer-generated FDA audit forms in which data submitted from the clinical physicians and those from the UGDP computer printout are juxtaposed for direct comparison. In early 1978, the UGDP Coordinating Center also made data available on all 1,027 patients in the form of a computer printout that included baseline information and information on followup examinations, e.g. body weight, fasting blood glucose, prescribed treatment, adherence score, blood pressure, and serum cholesterol.

The agency concludes that additional raw data are not required to be made available to support the UGDP findings or the conclusions expressed in this rulemaking proceeding. Adequate information is available about the UGDP study to require that a warning of the study finding of an association between tolbutamide and increased CV mortality be included in the labeling for oral hypoglycemic drugs. It is unlikely, the agency believes, that additional analyses of the data at this time would contribute to an assessment of this finding. The agency agrees with those comments that felt that additional analyses or consideration of the "raw data" would not be useful and would simply delay further implementation of an appropriate labeling requirement (see also paragraph 8).

IV. Other Studies

58. One comment stated that other studies cited in the proposal as supporting UGDP cannot reasonably be relied upon. The comment points out, for example, that the study by Palumbo and the study from the Joslin Clinic have not been published as reports in scientific journals.

The agency has not relied on these studies in preparing the final labeling. Although FDA referred to these studies in the 1975 proposal as recent "additional reports relating to the safety of oral hypoglycemic drugs," the agency expressed reservations about the interpretation of the studies. At hearings before the Subcommittee on Monopoly of the Select Committee on Small Business, U.S. Senate, on January 31, 1975, Dr. P. J. Palumbo reported that a retrospective study of diabetic patients treated at the Mayo Clinic suggested that survival was lower in those patients treated with oral hypoglycemic agents

compared to those treated with insulin. The agency has recognized that this study has not been published and thus insufficient information is available to assess it.

The study from the Joslin Clinic referred to in the comment was reported in a doctoral thesis (Ref. 38), but this study also has not been published in a scientific journal. The agency acknowledges that it is a nonrandomized retrospective observational study subject to a number of sources of bias and to ambiguous interpretations.

59. Three comments stated that increases in mortality from diabetes have been reported in many countries in the two decades since oral hypoglycemic agents were introduced (Refs. 36 through 39). They said that while it is not clear that the increase can be attributed wholly to the use of oral agents, the correlation is strong enough to raise serious concern.

The agency concludes that the many possible confounding variables inherent in this type of data analysis do not permit a meaningful interpretation. Reid and Evans (Ref. 42) acknowledge the difficulty of interpreting such observational data. There are numerous equally plausible explanations for time trends in mortality rates observed in the general population, aside from oral hypoglycemic drug use. Accordingly, the agency has not relied on these data in implementing the warnings for oral hypoglycemic drugs required by this final rule.

60. Several comments cite the study by Keen et al. (Bedford trial) as one that does not support the UGDP observations regarding CV mortality.

The study by Keen et al. (Refs. 35 and 40 through 49) is a prospective randomized double-blind clinical trial involving 248 "borderline diabetics" treated with either tolbutamide (0.5 gram twice a day) or a placebo containing 3 milligrams of tolbutamide. These patients were classified as borderline diabetics in surveys in Bedford, England, during 1962 and 1964. The method used to detect and classify diabetes was unusual in that it relied on a single capillary blood sugar obtained 2 hours after a 50-gram oral glucose load. Persons with capillary blood sugar levels of 120 to 199 mg/dL were classified as borderline diabetics and those with higher levels were diagnosed as diabetics and were not included in the study. The subjects were randomized into treatment groups and followed at 6-month intervals for 8½ years. Unlike the UGDP study, the CV mortality rate for the 125 placebo

patients (15.2 percent) was not significantly different from that for the 123 tolbutamide patients (14.6 percent). The total mortality also was not significantly different (placebo, 21.6 percent; tolbutamide, 20.3 percent) (Ref. 50).

The criteria used to include patients in the Bedford trial were quite different from those of UGDP in that patients studied were not clearly diabetic. Of the 196 patients who met the criterion for a borderline diabetic when first tested and who were retested after being randomized in the study but before starting treatment, 38 percent had, on retest, blood sugar levels below the range for borderline diabetes. Dr. Keen noted that this finding casts doubt upon the validity of a diagnosis based on a single raised capillary blood sugar level and emphasizes the importance of introducing confirmatory measurements (Ref. 46).

In a 1979 editorial, Keen et al. noted that mildly impaired glucose tolerance was equated historically with early diabetes but that evidence had accumulated casting doubt on this notion (Ref. 51). Part of the evidence cited was the low rate of progression to overt diabetes in borderline diabetic subjects of the Bedford trial (1 to 2 percent per year regardless of treatment). The mean 2-hour post-glucose blood sugars for patients in both the placebo and tolbutamide groups were reported to have declined despite increasing age (Ref. 50). Furthermore, no significant retinopathy was noted in the borderline diabetic group.

The age distribution of the population studied by UGDP and that studied by Keen et al. also differed. Although the mean age of the Bedford population at entry into the study was somewhat less than that for the UGDP study (46.1 years versus 52.7 years), approximately 24 percent of the Bedford population was 70 years of age or older, compared to about 6 percent for the combined UGDP population. In addition, the Biometric Society committee noted that there was a higher percentage of patients 70 years of age or older in the PLBO group than the TOLB group in the Keen study (29.6 percent versus 17.9 percent); the difference is statistically significant (p less than .05). The distribution of such individuals in the UGDP study was 4.4 percent TOLB and 7.8 percent PLBO.

The population of the Bedford study was thus different from that of the UGDP study. That the Bedford trial should not be used to refute the results of the UGDP study was reflected by Dr. Keen himself in a 1970 reply to comments by Dr. Klimt contrasting the

findings of the UGDP study with those of the Bedford trial (ref. 48):

I think the emphatic thing here is that we are dealing with two very different starting populations. Dr. Klimt is dealing with a much more grossly hyperglycemic group than we are. In fact, his group starts virtually where ours leaves off, and I think that everybody would agree that there are very gross differences in people with lesser and greater degrees of hyperglycemia especially in relation to cardiovascular disease, as I showed. So I think his contribution bears only on the group that he describes, just as our findings bear only on the group we describe.

The agency regards the failure to observe an increase in CV mortality with the administration of a lower dose of tolbutamide in the study by Keen et al. in borderline diabetic subjects as neither supporting nor constituting a strong challenge to the UGDP findings.

61. Several comments stated that because the patients in the Paasikivi study already had a compromised cardiac condition, the results are relevant in showing that tolbutamide does not possess intrinsic cardiotoxic properties.

The Paasikivi study (Refs. 52 and 53), a prospective, randomized, single-blind study of the effect of tolbutamide on survival from a myocardial infarction, was prompted by the observation that an abnormal intravenous glucose tolerance test (IVGTT) 3 to 4 weeks after an acute myocardial infarction was associated with a poor long-term prognosis. Over a 4½-year period, 178 survivors of a first myocardial infarction were recruited from a population of 270, following exclusion of overt diabetics. Only 29 percent were initially classified as having a diabetic IVGTT by the investigator. The 145 men and 33 women were randomized into 2 treatment groups (tolbutamide 95, placebo 83) on the basis of an odd or even birth date. Tolbutamide was given to a maximum daily dose of 1 gram. Cumulative survival was significantly better in the tolbutamide-treated group over the first 1 to 1½ years but thereafter was similar.

The Paasikivi study is a relatively small clinical trial in a predominantly nondiabetic population receiving less than average therapeutic doses of tolbutamide. The findings of this study are of debatable relevance to the observations in the UGDP population comprised largely of maturity onset diabetics. The agency concludes that the results of the Paasikivi study neither support nor seriously challenge the findings of the UGDP.

62. Several comments objected to the proposed CV warnings because other studies, such as that by Feldman et al.,

have not confirmed the UGDP findings. Comments challenged the Biometric Society committee criticisms of the Feldman study that the data were insufficient to throw light on relative mortality rates associated with the different treatments. This conclusion of the Biometric Society committee was challenged as being unreasonable in that even though the small number of deaths in the Feldman study may be grounds for statistical rejection of the study, the failure to observe any increase in CV events or mortality in either the tolbutamide or phenformin group raises suspicions about the clinical significance of the greater CV mortality in the UGDP study.

The Feldman study was a prospective, randomized, double blind, placebo-controlled study intended to determine whether the administration of oral hypoglycemics to newly diagnosed asymptomatic diabetics might improve carbohydrate tolerance and prevent or postpone overt diabetes (refs. 54, 55, and 56). The 350 subjects in the study (280 were classified as having chemical diabetes and 70 as having probable diabetes) were recruited over a period of about 4 years. They were free of other significant disease, and their mean age was 44.7 years of age (15 to 59 year range); 174 patients were randomly assigned to tolbutamide (1 gram daily), 91 to phenformin (100 milligrams daily), and 85 to placebo.

About 8 years after recruitment was started only four subjects had died—three of cancer in the tolbutamide group and one of a myocardial infarction in the placebo group. A brief summary of the 10-year study data published in 1977 showed 12 deaths, with 7 (4 percent) in the tolbutamide group, 3 (3.3 percent) in the phenformin group, and 2 (2.4 percent) in the placebo group (Ref. 56). No information was given on the number of CV deaths. Because of the small numbers of deaths, the agency concurs with the opinion of the Biometric Society committee report that the mortality data available from the Feldman study are insufficient to provide a basis for statistical analysis of significance regarding the association between oral hypoglycemic drugs and CV mortality (Ref. 25).

With respect to the comment's suggestion that the results of the Feldman study raise suspicions about the CV mortality data in the UGDP study, FDA notes that the study population in the Feldman study was different from that of the UGDP study in that it was younger and generally healthier. The subjects appear to have had a milder degree of glucose

intolerance at entry, and those who developed overt diabetes were removed from the study. Smaller doses of tolbutamide were also administered. The agency concludes that the failure of the Feldman study to observe increased CV mortality with oral hypoglycemic drugs neither supports nor significantly challenges the UGDP findings.

63. Two comments stated that the Tzagournis and Reynertson study shows that there continues to be no significant difference in mortality in the group treated with phenformin compared to that treated with diet alone. The comments stated that the review by the Biometric Society committee (and referred to by the agency in the 1975 proposal) was based on the limited data available at that time, but that now the number of deaths in this study can no longer be regarded as insufficient for statistical analysis.

Even though phenformin has been removed from the market, the agency has reviewed the Tzagournis and Reynertson study again to determine its relevancy to the UGDP findings (Refs. 57 and 58). This prospective unblinded clinical trial compared the effect of diet and phenformin in daily doses of 50 to 150 milligrams with the effect of diet alone on mortality from CV disease in 137 patients with premature coronary disease. The study began in 1965. The 33 patients recruited in the first year were not randomized to treatment groups; 29 were assigned to diet and phenformin and 4 to diet only. Over the next 4 years, 104 patients were randomly allocated to treatment groups: 54 to diet and phenformin and 50 to diet only. Cumulative life table survival analyses of the randomized patients only and of all patients enrolled in the study were reported as showing no significant differences for any year between the two treatment groups.

Compared to UGDP, the study population was much younger (mean age 42 years versus 52 years), predominantly male (89 percent versus 29 percent), and nonobese (98 percent versus 133 percent of ideal body weight). Overt diabetics were excluded. The agency believes that this study neither confirms nor refutes the UGDP findings because of differences in study design, the relatively small numbers of patients, and differences in study population. The report by the Biometric Society committee noted that the small number of patients rather than the small number of deaths would make it difficult to detect with any degree of confidence the differences in CV mortality rates observed between treatment groups in the fourfold larger UGDP study (Ref. 25).

64. One comment referred to an unpublished report of a 19-year followup by Goodkin et al. of 10,538 diabetic persons who applied for life insurance during the years 1951 through 1970. The comment stated that there was no significant mortality difference between the group treated with diet (5.0 percent) and that treated with oral hypoglycemic agents (6.9 percent), but mortality rates of the insulin groups were significantly greater, probably because of disease severity. The Goodkin study was not purported to be comparable to the UGDP study; nonetheless, the comment noted that the study reported on 948 patients treated with diet and oral hypoglycemic agents and 715 treated with diet alone, all observed over a long period, and if the 2½-fold difference in CV mortality were valid, it should have been evident in the Goodkin study.

In referring to the Goodkin report, the comment refers to an unpublished report without supporting data. Two reports published previously on this study (Refs. 59 and 60) indicate that subjects were classified into groups based on treatment they were receiving when they applied for life insurance. Apparently no attempt was made to determine treatment given over subsequent years. Thus, this is a nonrandomized observational study subject to a number of sources of bias. In addition, the reports indicate that the diabetic population applying for insurance generally consists of young, healthy males, thus differing from the patients included in the UGDP study. The agency concludes that the study referred to above cannot, in view of its design, provide data either to support or to refute the UGDP findings.

65. One comment stated that the Framingham Study does not support the UGDP findings. This comment stated that in the 16-year prospective followup of 239 diabetic patients reported by Garcia et al. (Ref. 61) the CV mortality rates of 25.8 percent for insulin treated diabetics, 10.6 percent for those treated with oral hypoglycemic agents, and 15.3 percent for patients treated with diet alone do not support the contention that the death rate from CV disorders among diabetic patients treated with oral hypoglycemic agents is 2½ times greater than among placebo (diet) treated patients.

The Framingham Study was intended to explore the epidemiology of CV disease in a general population sample and not to investigate the effect of treatment in diabetics. Treatments by the patients' own physicians were noted by the investigators, but subjects were not randomized into treatment groups.

Classification into treatment groups occurred either at time of entry into the study (for previously diagnosed diabetics) or at the time the investigators became aware of the condition at followup examinations performed at 2-year intervals. It is not clear that subjects remained on the same treatment throughout the course of observation. There were 10 CV deaths among the 94 diabetics in the study who were managed by oral hypoglycemics, mostly tolbutamide, and 8 CV deaths among the 52 diabetics on diet or no treatment. Primarily because this is a nonrandomized observational study, it cannot by virtue of its design provide information that would either support or contradict the UGDP findings. The agency notes that the Framingham investigators also do not include such a claim in their published report.

66. Several comments stated that the study of Carlstrom et al. contradicts the UGDP findings. One comment, referring to two abstracts by Carlstrom et al. (Refs. 62 and 63), stated that in the 8- to 10-year followup of 578 newly diagnosed diabetic patients, myocardial infarctions occurred in 6 percent of untreated patients; 5 percent of those treated with diet alone; 8 percent of diet-plus-placebo-treated patients and 2 percent of diet-plus-tolbutamide-treated patients. Therefore, the comment contended that these data do not confirm a 250 percent increased incidence of death due to CV disorders among diabetic patients treated with tolbutamide.

The abstracts referred to by the comment were published in 1974 and 1975 (Refs. 62 and 63) and are reports of "CV events" in 157 of 578 subjects with borderline diabetes (overt diabetics were excluded) identified in a diabetic detection campaign in Sweden from 1962 to 1965. A subsequent report published in 1980 states that the original group of 578 subjects was divided into 5 treatment groups by a consecutive randomization procedure, and the study was reported to have been double-blinded through 1972 (Refs. 64, 65, and 66). The method of selecting for followup for the subgroup of 157 subjects referred to in the 1974 and 1975 abstracts was not specified. The mortality percentages listed in the comment are not based on 578 patients as seems to be implied by the comment, but on much smaller numbers. There was 1 myocardial infarction among 35 subjects in the tolbutamide (1.5 grams daily) plus diet group, and there were 3 myocardial infarctions among 34 subjects in the diet plus placebo group.

The 1980 publication reported on a different subgroup that included 267 men from the original 578 subjects, but it did not state whether this subgroup included all the men from the original group (Ref. 66). There were 9 total deaths (causes unspecified) in the 49 subjects (18.4 percent) in the tolbutamide plus diet group compared to 14 deaths in 48 subjects (29.2 percent) in the placebo plus diet group and 8 deaths among 50 subjects (16.0 percent) in a "diet only" group. Twenty-three of the 49 borderline diabetics in the tolbutamide group were reported to have discontinued the drug at unspecified times during the study.

The agency believes that little weight can be given to the results of this study by Carlstrom et al. as a basis for either supporting or contradicting the results of the UGDP study. Although the study was reported to have been randomized and double-blinded (at least for a period), many details of the design and conduct of the study have not been reported. In addition, little information has been made available to assess comparability of the groups at baseline. Subgroups have been selected for followup analyses without clear explanations of the basis for doing so, thus introducing several possible sources of bias, and the number of subjects treated with tolbutamide for whom the results were reported is small. Moreover, the population of borderline diabetics included in this study is different from the more overtly diabetic population of the UGDP study.

67. Several comments saw the findings of a retrospective study by Harrower and Clarke as not consistent with those of the UGDP study.

The report of Harrower and Clarke summarized the mortality experience during 99 admissions to a coronary care unit over a 5-year period for 94 diabetic patients with myocardial infarctions (Ref. 67). During hospitalization, the patient's usual antidiabetic treatment was continued, but modified when necessary. Patient admissions were classified according to their antidiabetic treatment into 5 subgroups: diet (26), sulfonylureas (23), biguanides (12), combined oral treatment (14), and insulin (24). No definite correlation was found between the type of antidiabetic treatment and either mortality or the incidence of primary ventricular fibrillation. The investigators noted that such a small retrospective study is unlikely to give a clear answer to the question of the effect of oral antidiabetic treatment on CV mortality. The agency agrees with the authors and concludes

that this study neither confirms nor contradicts the findings of UGDP.

68. Several comments cited studies that support the UGDP finding of an increased CV mortality in diabetic patients associated with the use of oral hypoglycemic drugs. One such study was that of Soler et al.

The comment did not discuss the details of the Soler study, but the agency has reviewed the published reports. The investigators initially published a retrospective analysis of the mortality experience of 184 known diabetics who had sustained an acute myocardial infarction and had been admitted to a coronary care unit (CCU) over the 6-year period, 1967-1973 (Ref. 68). In a subsequent publication, an additional 101 diabetics admitted to the wards of the hospital with a myocardial infarction during the same 6-year period were included in a retrospective analysis of mortality data for the entire group of 285 diabetic patients (Ref. 69). Patients were classified by the type of diabetic therapy they were taking immediately before hospitalization. The majority of non-insulin-treated patients whose diabetes could not be controlled by diet alone were transferred to insulin therapy during the acute stage of their myocardial infarction.

When the 285 diabetics were admitted to the hospital, 31 were on diet only, 129 were on oral hypoglycemic drugs, and 125 were taking insulin. The mortality percentages 1 month after hospital admission for each of these three groups were 17 percent, 46 percent, and 39 percent, respectively. Thus, those diabetic patients who had developed a myocardial infarction and had been taking oral agents had a slightly higher mortality rate than those diabetics who had been taking insulin. The study might appear to support the UGDP study because a higher mortality in the tolbutamide group compared to the insulin-treated group would not be expected. Patients on insulin apparently had more severe diabetes based on estimated mean duration of disease (about 15 years versus 7 years) and percent of patients with retinopathy (52 percent versus 19 percent). Although not evaluated in the combined ward and CCU analysis, the earlier analysis of the CCU admissions also suggests that the insulin group had a higher incidence of preexisting hypertension, angina pectoris, and congestive heart failure.

The agency notes, however, that this study is a nonrandomized observational study subject to a number of sources of bias. For this reason, the agency considers this study neither to support nor to refute the UGDP findings.

69. Several comments cited the two studies of Boyle and Hadden as supporting the UGDP finding of an increased risk of CV death in maturity onset diabetic patients treated with oral hypoglycemic agents.

In a 12-year retrospective survey in 670 maturity onset female diabetics attending a hospital clinic, Hadden et al. reported that there were 1.52 and 3.06 myocardial infarctions per 100 patient-years for the period of diet only and diet plus oral therapy, respectively (Ref. 70). However, as the authors point out, it is not possible in such a survey to discriminate between the risk of oral agents and the influence of the severity of the diabetic state itself as possible explanations for their observations.

In a 6-year, nonrandomized, unblinded prospective study of 186 newly diagnosed maturity onset diabetics, Boyle et al. reported a significantly greater frequency of myocardial infarctions in the 71 subjects treated predominantly with oral agents (19.7 percent) than in the 115 patients treated with diet only (9.5 percent) (Ref. 71). As noted by the authors, this study must be interpreted cautiously because of potential bias in allocating patients. Therapy was altered, depending upon the blood sugar response, and classification into diet and oral hypoglycemic groups was based on the treatment received most of the time. In addition, the number of subjects was small, as were the number of CV events; i.e., 11 myocardial infarctions in the diet group and 14 in the tablet group. The agency believes that the results of these studies are consistent with either the UGDP finding or the hypothesis that higher risk patients were allocated to the oral hypoglycemic group. The agency has not relied on this study in implementing the warnings for oral hypoglycemic drugs required by this final rule.

70. One comment objected to FDA's citing the study by Wissler et al. (FDA contract 72-114) in the preamble to the 1975 proposal as supporting the UGDP study. The preamble stated that the results of the study on the chronic effects of tolbutamide in the rhesus monkey indicate there is an increased frequency and severity of atherosclerotic lesions in the coronary arteries of tolbutamide-fed monkeys compared to control monkeys. The preamble also noted that the final report of the study was under review. The comment stated that the agency failed to give a fair summary of the unpublished work. The comment acknowledged that significant differences in atherosclerotic lesions were found in the coronary

arteries of monkeys treated with tolbutamide, but criticized the preamble for failing to note that (1) no such differences were found in other arteries examined; (2) the treatment groups were small; (3) an error in the animals' diet resulted in scurvy, which caused the premature death of two of the nine tolbutamide-treated animals, thereby further complicating the analysis and significance of the findings; and (4) the pathophysiologic mechanism of atherosclerosis in hyperglycemic animals is different from that in normoglycemic animals.

The agency advises that the final report of the study by Wissler et al. dated February 15, 1975, has been fully reviewed, and, although it is not published in the scientific literature, the report is on file with FDA's Dockets Management Branch (Ref. 72). Eighteen young, adult, nondiabetic monkeys were fed a mildly atherogenic diet referred to by the investigators as "table-prepared average American diet." One-half the monkeys were also given tolbutamide, 20 milligrams per kilogram body weight daily for 18 months. As noted in the comment, two animals in the tolbutamide group died before the study was completed and these deaths were considered by the investigators most likely to have been related to vitamin C deficiency. After the deficiency was discovered, the diet was supplemented with the vitamin.

Final pathologic examinations were made on seven pairs of monkeys. Histologic sections from nine predetermined sites in the coronary arteries were examined and rated by two pathologists without knowledge of the treatment groups. The investigators found that the atheromatous lesions in the coronary arteries of the tolbutamide group were about twice as frequent (p less than .01) and three times more severe (p less than .001) than those in the control group. No statistically significant differences were seen in the frequency or severity of atheromatous lesions in the aorta, or in the carotid or femoral arteries between the two groups. The investigators were unable to define a pathogenic mechanism for the increased atheromatous lesions; there were no correlations with abnormalities of blood clotting, lipids, or platelets. The microscopic sections from the coronary arteries also were examined by three additional pathologists at a later time and rated independently without knowledge of the treatment groups (Ref. 73). Their findings confirmed the earlier observations.

The agency agrees that this is a relatively small study, that

interpretation of the results is confounded by the apparent vitamin C deficiency for at least a portion of the trial, and that extrapolation of the results from nondiabetic animals to diabetic humans must be approached very cautiously. Nonetheless, the association of increased coronary atherosclerosis with tolbutamide administration in the monkeys does suggest a plausible mechanism by which tolbutamide could affect CV mortality in humans. The agency has, therefore, accorded this study some weight in its overall judgment on the need for a warning with respect to the association reported by UGDP.

71. Several comments, in referring to studies in animals and humans, interpreted them as confirming or failing to confirm the Levy, Lasseter, and Palmer work cited by the agency in the 1975 proposal as a possible explanation of the UGDP findings. The preamble to the proposed rule stated that sulfonylurea agents had been reported to have a positive inotropic effect (i.e., increased force of muscular contraction) on the heart (Refs. 74 and 75), and that limited animal studies had also suggested they may increase the excitability of heart muscle (Ref. 75). The agency noted that an increased oxygen requirement resulting from a positive inotropic effect could be deleterious to patients with coronary artery disease because the cardiac muscle may already have a relative oxygen deficit from reduced blood flow. One comment noted that other studies with different results were not discussed in the preamble, and several such studies were cited by the comment (Refs. 76 through 83).

The agency agrees that conflicting observations on the inotropic effects of sulfonylurea drugs have been reported, which may in part be due to differences in experimental design, measured end points, species examined, dosage, and acute versus chronic exposure. Although positive inotropic effects for tolbutamide have been observed in the rabbit, rat, and cat, no effect was seen in dogs (Ref. 83). Conflicting results also have been obtained from experiments in humans. Crockett et al. measured "systolic time intervals," a technique that is considered to reflect inotropic effects on the heart and involves the simultaneous recording of the electrocardiogram, the phonocardiogram, and the carotid arterial pulse (Ref. 81). No positive inotropic effects were noted by these investigators in 11 diabetic subjects treated for 7 days with 1.5 grams of tolbutamide orally, or after the

administration of 1 gram intravenously in 4 nondiabetic subjects.

Young et al. also measured "systolic time intervals" following the administration of intravenous tolbutamide in six normal subjects (Ref. 82). They found a small positive inotropic effect after 5 to 10 minutes that seemed to correlate more with serum insulin levels than tolbutamide levels. These investigators concluded that "the minor late inotropic effects are of doubtful clinical significance and cannot be invoked to explain the reported increased cardiovascular mortality of patients treated with tolbutamide." Hildner et al. studied the effects of a 250-milligram intravenous bolus of tolbutamide in 15 patients requiring cardiac catheterization (Ref. 84). These investigators reported that the drug produced a moderate inotropic effect as determined by ventricular function curves. In summing up the clinical evidence for an inotropic effect of sulfonylureas, Levy stated "they may exert positive inotropic effects in man, but the results have been inconclusive, with a lack of responsiveness being documented more frequently than responsiveness" (Ref. 83).

The agency agrees that it cannot be concluded on the basis of available evidence that tolbutamide has a significant inotropic effect on the human heart, and thus does not view that mechanism as explaining the increased CV mortality observed with tolbutamide in the UGDP study.

72. Two comments drew attention to the problem of interpreting the UGDP finding of excess CV mortality associated with the administration of two chemically unrelated oral hypoglycemic agents (tolbutamide and phenformin) that lower blood glucose by different mechanisms. The comments implied that there is no reason to expect a common mechanism of action relating use of these drugs to increased CV mortality. One of these comments stated that this situation arouses suspicion that neither agent is at fault but rather other factors must be implicated.

The agency agrees that the observation of excess CV mortality associated with the administration of chemically unrelated oral hypoglycemic agents is unexpected. A mechanism of action has not been established by which either the sulfonylureas or the biguanides may have caused increased CV mortality (see, e.g., paragraphs 70 and 71). The agency agrees that the reported association of increased CV mortality with the use of these drugs would be strengthened if a well-established mechanism or mechanisms

were known that explained how these agents could adversely affect the CV system. Nonetheless, the association reported by the UGDP study cannot be dismissed because such a mechanism, whether the same or different for the two classes of oral hypoglycemic agents, is not well defined. In fact, a demonstrated mechanism of action, while desirable and usually available, is not necessarily required for either scientific or regulatory reasons to establish a warning, or for that matter, the effectiveness of a drug for marketing approval.

73. Several comments stated that oral hypoglycemic drugs have been demonstrated to be safe in private practice and that an increase of 2½ times in the CV mortality would have been detected by practicing physicians. Another comment stated, however, that it is not to be expected that the increase in CV mortality of approximately 1 percent per year would be apparent in retrospective analysis of clinical experience or private practice.

The agency does not agree that the increased CV mortality rate observed in the UGDP study would likely be detected by practicing physicians. Although unusual adverse drug effects may become apparent under the uncontrolled conditions of clinical practice, CV mortality is the most common cause of death among diabetic patients, regardless of therapy. Increased CV mortality to the extent observed in the UGDP study is far more readily detected under the controlled conditions of a large randomized clinical trial such as the UGDP study in which mortality experience of a drug-treated group can be systematically recorded and compared to that of a comparable control group.

Labeling

74. Several comments questioned whether there was sufficient basis for a warning in the oral hypoglycemic drug labeling. One comment stated that there is insufficient scientific evidence to support a warning but that a statement about the UGDP study could be included in a "Clinical Studies" section. Other comments pointed out that proof of hazard is not required to support a warning.

The agency concludes that the UGDP study provides an adequate basis for a warning. Although interpretation of the study is subject to some reservations, none of these invalidates the reported association between increased CV mortality and tolbutamide. The 1975 proposal (40 FR 28591) pointed out that the requirement for a warning does not depend upon the risk being proven with

certainty. FDA's regulations on the content and format of drug labeling (§ 201.57(a)) state that the labeling shall be revised to include a warning when there is reasonable evidence of a serious hazard with a drug and that a causal relationship need not have been proved. The decision on what constitutes reasonable evidence of a serious hazard is a judgment that must be based on the available scientific information and the opinion of experts who interpret that information. The agency believes that the findings reported by UGDP of an association of oral hypoglycemic drugs with increased CV mortality constitute reasonable evidence of a serious hazard.

The agency notes, moreover, that inasmuch as the UGDP study has been found to be an adequate and well-controlled trial, its basis as a warning in prescription drug labeling is at least as legally sufficient as the type of information and data that FDA regulations permit and on which FDA frequently relies for warning statements.

The agency does not believe that the findings of the UGDP study should be mentioned only in a "Clinical Studies" section of the labeling. The "Clinical Studies" section is an optional section intended to be used for detailed information on clinical trials, particularly those supporting the effectiveness of the drug. It is not an appropriate location in the package insert for an important warning.

FDA has revised the phrase in the proposal (40 FR 28593) that the findings of the UGDP study "provide adequate scientific basis for this warning" to read "provide an adequate basis for this warning." Although the agency believes inclusion of the warning is supported scientifically and under the provisions of its warning regulations, it believes the word "scientific" is not needed to explain the basis for the warning.

75. Many comments stated that the wording of the warning should be modified to note that there are other studies that do not support the findings of the UGDP study, or to state more strongly that there are differences of opinion about the interpretation of the UGDP study. Other comments supported the warning as worded.

FDA addressed these issues in the 1975 proposal (40 FR 28591), which stated that in conformity with FDA's policy, warnings must be presented in unambiguous terms without disclaimers or qualifications that would undermine or destroy their usefulness. Thus, there was no mention in the proposed warning of other studies that have failed to support the findings of the UGDP study. The citing of studies in which an association between increased CV

mortality and tolbutamide was not found would have diminished the warning and would not have been consistent with § 1.21. To the extent that comments have cited other studies as being inconsistent with the UGDP study or the conclusions embodied in this rulemaking, this preamble sets forth FDA's reasons for rejecting their conclusions (see paragraphs 60 through 67) in favor of those of UGDP.

The warning statement adopted continues to acknowledge the controversy over the interpretation of the UGDP study but states that, in spite of this, the UGDP findings provides an adequate basis for this warning.

To acknowledge more clearly that the warning is based on the UGDP study, FDA has revised the first sentence of the warning, in response to comments, to state that the administration of oral hypoglycemic drugs "has been reported" to be associated with increased CV mortality.

76. Several comments challenged the extension of the UGDP findings to other sulfonylurea drugs. Other comments noted, conversely, that there was no basis for assuming that the concern over the possible risk of mortality did not apply to other oral hypoglycemic agents in the sulfonylurea category.

FDA regulations on the content and format of drug labeling state that adverse reactions that occur with drugs in the same pharmacologically active and chemically related class, if applicable, shall be listed (§ 201.57(g)(1)). The regulations also state that the warning section of the labeling or, if appropriate, the contraindications section shall identify any potentially fatal adverse reaction (§ 201.57(g)(3)). The warning required by this final rule states that only one drug in the sulfonylurea category was administered in the UGDP study but that because of close similarities in mode of action and chemical structure, it is prudent from a safety standpoint to consider that this result may also apply to other drugs in the sulfonylurea category. This statement is both responsive to the comments and is consistent with current labeling regulations.

77. The proposed labeling included the statement in both the "Indications" and "Warnings" sections that the patient should be informed of the advantages and potential risks of therapy and should participate in the decision to use the drug. Several comments recommended that the labeling be revised to require signed informed consent by patients before oral hypoglycemic drugs can be prescribed.

Other comments disagreed with including any reference to informed consent in the physician labeling, largely on the basis of alleged increased malpractice exposure.

The agency has not traditionally viewed making recommendations as to informed consent to be a proper function of prescription drug labeling. Unlike the case of investigational new drugs, the Federal Food, Drug, and Cosmetic Act contains no express command that informed consent be obtained for approved uses of new drugs. The agency believes, however, that the association reported by UGDP study is sufficiently important that diabetic patients, in considering their therapeutic regimen with their physicians, would benefit from being made aware of it, along with the advantages and potential risks of these drugs and of alternative modes of therapy. Therefore, the agency has retained in the special "Warning" section the revised language suggesting that patients be informed of these matters. The agency has deleted a similar statement from the "Indications" section of the guideline labeling to avoid unnecessary duplication. In spite of assertions in the comments to the contrary, the agency is not aware of data showing increased exposure of physicians to malpractice suits as a result of providing warning information about drugs to patients.

78. Many of the comments in favor of the labeling requirements expressed the belief that the patient has the right to know about adverse reactions associated with a drug and, where options exist, should participate in the therapeutic decision. Several comments recommended that all prescription drugs include patient labeling, which would provide information on proper use and any warnings associated with the drug.

The agency agrees that patients have a right to know about adverse reactions associated with a drug and that benefit/risk considerations should be discussed with the patient. The "Warning" section of oral hypoglycemic drug labeling will retain the statement that the patient should be informed of the potential risks and advantages of these drugs and of alternative modes of therapy. The statement that the patient should participate in the decision to use the drug, however, has been deleted. An explanation to the patient of the potential risks and advantages of the drug and of alternative modes of therapy implicitly includes the patient in the therapeutic decision process. The agency believes it is unnecessary to add as part of a required warning that the

patient should participate in the decision to use the drug.

The agency is not proposing to require mandatory patient package inserts (PPI's) for oral hypoglycemic drugs. On the basis of a recent review of its PPI program (see 47 FR 39249; September 7, 1982), the agency believes that the goal of providing patients with better information about prescription drugs can be reached more effectively by cooperating with health professionals and others in both the public and private sector to expand upon current private initiatives in patient education. The agency believes that the potential risk associated with the use of oral hypoglycemic drugs does not warrant a separate rulemaking procedure to require a PPI specifically for this class of drugs.

79. One comment stated that oral hypoglycemic drugs should be contraindicated in obese, non-insulin-dependent diabetic patients. This recommendation is based on the observation, supported by many comments and by clinical studies published in the medical literature, that a program of dietary restriction, increased physical activity, and weight loss is frequently effective in controlling hyperglycemia in such patients.

The agency agrees that such a therapeutic program is the primary form of treatment for these individuals and that glucose-lowering drugs are indicated only when such a program has clearly failed to reduce symptoms and/or blood glucose levels. The agency also recognizes that oral agents have been used inappropriately in obese patients before an adequate dietary and exercise program has been tried as an alternative to such a program. These issues have been emphasized in the guideline labeling for this class of drugs. However, the proper use of oral agents in some obese patients with non-insulin-dependent diabetes can still result in therapeutic benefits that outweigh the attendant risks. Under those circumstances, a contraindication in the labeling against use in all obese patients with non-insulin-dependent diabetes would be inappropriate.

80. Several comments suggested that the proposed warning described a possible risk but not a known hazard of the drug and, therefore, the warning should not be placed in a box or in bold type. The comments argued that the proposed warning was out of context with the risks described in other boxed warnings, which are generally well-established and serious known hazards.

The agency has considered these comments carefully, reviewed a number

of boxed warnings on other drugs, and concluded that the warning should be required to be in boldface type, but not in a box. Despite the continuing questions on the relationship between the use of sulfonylurea drugs and increased cardiovascular mortality, the potential risk is too serious to permit the warning to appear without highlighting of some form. Of the two possibilities, box or boldface type, the latter is viewed as less serious, and unlike the use of a box, imposes no ancillary restrictions, i.e., the prohibition against the use of reminder advertisements under 21 CFR 202.1(e)(2)(i). The agency believes that the use of boldface type without an accompanying box will serve to properly advise physicians of the seriousness of the risk but will avoid the connotation that the comments describe as being associated with the use of a box. The warning will have a heading entitled "Special Warning on Increased Risk of Cardiovascular Mortality," a slight change from the title in the proposal.

81. Many comments objected to the sequential ordering of treatment in the proposed labeling "Indications" section, which states that oral hypoglycemic drugs should be used only in those diabetic patients who could not be controlled by diet alone and in whom insulin could not be used because of patient unwillingness, erratic adherence to the injection regimen, poor vision, physical or mental handicap, insulin allergy, employment requirement, or other similar factors. Many comments maintained that such wording represents unjustified interference in the practice of medicine, and that the choice of therapy should be left to the judgment of the physician. A number of comments also stated that this approach did not give adequate weight to the known risks of insulin therapy, particularly the increased risk of serious hypoglycemic reactions. Other comments supported the proposed "Indications" section, and one comment stated that the wording relating to the reasons a patient cannot take insulin should be more restrictive.

The agency agrees that the findings of the UGDP study are not sufficiently strong to support the restrictions on use in the "Indications" section of the labeling stated in the 1975 proposal. A large number of criticisms have been directed at the UGDP study, many of which on careful analysis are mistaken, argumentative, or irrelevant to the issue of increased CV mortality. Some of the criticisms, however, raise uncertainty on some aspects of the study that tend to diminish the strength of the association between the use of tolbutamide and

increased CV mortality reported by UGDP [see Supplementary Information section preceding comments).

The agency concludes that the UGDP study provides adequate evidence to support a warning on a risk of increased CV mortality. The agency does not believe, however, that the UGDP study alone provides conclusive evidence of such risk, nor does the available information from all studies taken together provide such evidence. If evidence of certainty were available, more stringent regulatory action, such as limitation of use to patients who could not use alternative therapy, or even withdrawal from marketing, would be appropriate. In view of some uncertainty over the strength of the association and the degree of risk, however, it would not be consistent with FDA's labeling policies to require a limitation on use in addition to a warning. The agency has therefore withdrawn its proposal to include a statement in the labeling that the use of oral hypoglycemic drugs should be limited to patients who cannot take insulin. The guideline labeling for this class of drugs continues to emphasize that dietary management is the primary form of therapy for patients with non-insulin-dependent diabetes.

82. Many comments addressed the issue of the relationship of blood glucose control to the long-term complications of diabetes. Some comments opposed the statement in the proposed labeling indicating sulfonylureas for use in asymptomatic patients. Other comments were in favor of allowing these drugs to be used in asymptomatic patients, but were opposed to the statement that in considering use of these drugs in such patients, it should be recognized that whether or not controlling the blood glucose is effective in preventing the long-term cardiovascular or neural complications of diabetes is an unanswered scientific question.

The agency recognizes that recent observations in animals and man support, but do not establish, a causal relationship between elevated blood glucose and diabetic microvascular complications, which can lead to retinal hemorrhages and impairment of vision, renal insufficiency, and gangrene of the toes. There is less evidence to support a causal association between elevated blood glucose and other atherosclerotic changes in the larger arteries, such as those leading to myocardial infarction. Resolution of these issues will depend on the results of future studies employing improved methods of both treatment and assessment of control of blood glucose.

The agency, therefore, has retained in the "Indications" section of the

guideline labeling for oral hypoglycemic drugs a statement that controlling the blood glucose has not been definitely established to be effective in preventing CV and neural complications.

83. One comment drew attention to the need to revise the proposed labeling to include the risk of use of sulfonylurea drugs during pregnancy.

The agency has reviewed this issue and agrees with the comment. Although it is known that sulfonylurea drugs cross the placental barrier freely, their teratogenic potential is unclear. Neonatal hypoglycemia has been reported. In addition, control of blood glucose that is acceptable in the nonpregnant state may not be appropriate during pregnancy. The guideline labeling includes a warning against the use of sulfonylurea drugs in pregnancy.

84. Two comments indicated that more emphasis should be placed in the labeling on the risk of hypoglycemia with sulfonylurea drugs.

The agency agrees with the importance of emphasizing this risk and those conditions known to be associated with a greater likelihood of such reactions. The labeling proposed in 1975 and the current guideline labeling point out that elderly patients are particularly susceptible to hypoglycemia, as are patients with impaired hepatic or renal function, patients who are debilitated or malnourished, and patients with adrenal or pituitary insufficiency. The labeling also notes that hypoglycemia is more likely to occur when caloric intake is deficient or after severe or prolonged exercise. The agency concludes that the risk of hypoglycemia is adequately emphasized in the guideline labeling.

85. Several comments stated that significant differences exist between the therapeutic designs of the 1961 UGDP protocol and current principles of management of patients with non-insulin-dependent diabetes. In view of these differences, the comments questioned how relevant the findings of the UGDP study are to current patient management methods. Among the differences cited were: (1) The more recent emphasis on diet therapy and exercise as the initial therapeutic approach to obese patients with non-insulin-dependent diabetes; (2) the attention to identification and proper management of CV risk factors, including the treatment of hypertension and the avoidance of cigarette smoking; (3) the individualization of drug therapy, regardless of whether insulin or oral agents are employed; and (4) the need for more frequent patient-physician interaction if such a total program is to

be successful and better glucose control is to be achieved.

The agency agrees that the proper management of patients with non-insulin-dependent diabetes should include the practices listed, and the guideline labeling for this class of drugs incorporates such recommendations. The agency does not agree, however, that differences between the design of the UGDP as a study and principles of management for individual patients with non-insulin-dependent diabetes are a basis for now considering the findings of the study to be outdated or irrelevant to proper treatment of such patients.

The issuance of this regulation requires an amendment to § 201.59. Section 201.59 originally established November 1, 1983, as the date by which manufacturers of blood glucose regulators, including oral hypoglycemic drug products, were required to have revised labeling complying with the labeling format for prescription drugs under §§ 201.56, 201.57, and 201.100(d)(3). Manufacturers of sulfonylurea blood glucose regulators were notified by telephone and by letter that the effective date for submitting revised labeling would be extended until some time after the final rule for oral hypoglycemic labeling was published in the Federal Register.

The amendment to § 201.59 provides that, for sulfonylurea blood glucose regulators, revised labeling should be submitted within 90 days after the date of publication of this final rule on oral hypoglycemic labeling, and that approved revised labeling is required to accompany products initially introduced or initially delivered for introduction into interstate commerce 180 days after the date of publication of the final rule. The 90-day period should be sufficient for manufacturers to prepare and submit applications, as the guideline labeling provides a basis for much of the required information. The agency cannot assure that applications not submitted within the period will be approved in time to permit manufacturers to implement required labeling changes for oral hypoglycemic drug products by the scheduled effective date of October 9, 1984. To the extent that individual manufacturers may be unable to meet this effective date, they may request a waiver under the provisions of 21 CFR 5.31 and 10.30. Absent extraordinary circumstances, however, FDA will not consider a waiver of the effective date for the warning requirement. This extension allows manufacturers to base their revisions on information provided in this final rule and in the guideline labeling for oral hypoglycemic drugs.

The availability of the guideline is being announced elsewhere in this issue of the Federal Register.

V. Economic and Environmental Impact

The agency has examined the economic impact of this rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act. An assessment of the economic impact has been prepared and is on file in the Dockets Management Branch (address above). The regulation is exempt from the requirement of a regulatory flexibility analysis because it was proposed prior to January 1, 1981.

The impact assessment covers the one-time costs of printing of package inserts. This is a relatively inexpensive process that will not produce costs to the industry to the extent that they would meet the threshold for a major rule as specific in Executive Order 12291.

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the reporting and recordkeeping requirements in §§ 201.56, 201.57, 201.59, 201.100(d), which set forth the content and format of labeling for human prescription drugs and the effective dates when revised labeling must meet these requirements, have been submitted for approval to the Office of Management and Budget (OMB). The guideline labeling being made available by the agency has been developed in accordance with the provisions of these sections. The requirements under § 201.59, as amended in this final rule, for revised labeling for oral hypoglycemic drug products will not be effective until FDA obtains OMB approval of the recordkeeping and reporting requirements of §§ 201.56, 201.57, 201.59, and 201.100(d). FDA will publish a notice concerning OMB review of these requirements prior to July 10, 1984.

The OMB review of these requirements does not apply to the effective date of the new warning information required by § 510.517 because that warning statement is not a collection of information as defined by OMB (5 CFR 1320.7(c)).

VII. References

The following references have been placed on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

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List of Subjects

21 CFR Part 201

Drugs, Medical devices, Labeling.

21 CFR Part 310

Administrative practice and procedure, Drugs, Medical devices, Reporting requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050-1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 201 and 310 are amended as follows:

PART 201—LABELING

1. In § 201.59, in the table by revising the entry for "Blood glucose regulators" to distinguish between sulfonylurea and other types of blood glucose regulators and by adding a new entry for "Sulfonylurea blood glucose regulators". As revised, the entries for blood glucose regulators read as follows:

§ 201.59 Effective date of §§ 201.56, 201.57, 201.100(d)(3), and 201.100(e).

- (a) * * *
- (3) * * *

Effective	Revised labeling due	Drug class	Mail routing code
Nov. 1, 1983	Nov. 1, 1981	Blood glucose regulators (except sulfonylureas)	HFN-130

Effective	Revised labeling due	Drug class	Mail routing code
Oct. 9, 1984	July 10, 1984	Sulfonylurea blood glucose regulators.	HFN-130

PART 310—NEW DRUGS

2. By adding new § 310.517 to read as follows:

§ 310.517 Labeling for oral hypoglycemic drugs of the sulfonylurea class.

(a) The University Group Diabetes Program clinical trial has reported an association between the administration of tolbutamide and increased cardiovascular mortality. The Food and Drug Administration has concluded that this reported association provides adequate basis for a warning in the labeling. In view of the similarities in chemical structure and mode of action, the Food and Drug Administration also believes it is prudent from a safety standpoint to consider that the possible increased risk of cardiovascular mortality from tolbutamide applies to all other sulfonylurea drugs as well. Therefore, the labeling for oral hypoglycemic drugs of the sulfonylurea class shall include a warning concerning the possible increased risk of cardiovascular mortality associated with such use, as set forth in paragraph (b) of this section.

(b) Labeling for oral hypoglycemic drugs of the sulfonylurea class shall include in boldface type at the beginning of the "Warnings" section of the labeling the following statement:

SPECIAL WARNING ON INCREASED RISK OF CARDIOVASCULAR MORTALITY

The administration of oral hypoglycemic drugs has been reported to be associated with increased cardiovascular mortality as compared to treatment with diet alone or diet plus insulin. This warning is based on the study conducted by the University Group Diabetes Program (UGDP), a long-term prospective clinical trial designed to evaluate the effectiveness of glucose-lowering drugs in preventing or delaying vascular complications in patients with non-insulin-dependent diabetes. The study involved 823 patients who were randomly assigned to one of four treatment groups (*Diabetes*, 19 (supp. 2): 747-830, 1970).

UGDP reported that patients treated for 5 to 8 years with diet plus a fixed dose of tolbutamide (1.5 grams per day) had a rate of cardiovascular mortality approximately 2½ times that of patients treated with diet alone. A significant increase in total mortality was not observed, but the use of tolbutamide was discontinued based on the increase in

cardiovascular mortality, thus limiting the opportunity for the study to show an increase in overall mortality. Despite controversy regarding the interpretation of these results, the findings of the UGDP study provide an adequate basis for this warning. The patient should be informed of the potential risks and advantages of (name of drug) and of alternative modes of therapy.

Although only one drug in the sulfonylurea class (tolbutamide) was included in this study, it is prudent from a safety standpoint to consider that this warning may also apply to other oral hypoglycemic drugs in this class, in view of their close similarities in mode of action and chemical structure.

Effective dates. Effective October 9, 1984 for the addition of new warning information under § 310.517 and for revision of labeling under § 201.59 for oral hypoglycemic drug products of the sulfonylurea class initially introduced or initially delivered for introduction into interstate commerce.

(Secs. 502, 505, 701(a), 52 Stat. 1050-1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a)))

Mark Novitch,

Acting Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

Dated: March 22, 1984.

[FR Doc. 84-0640 Filed 4-9-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Gentamicin Sulfate Oral Solution; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document that amended the animal drug regulations to reflect approval of a new animal drug application filed by Schering Corp. providing for safe and effective use of gentamicin sulfate oral solution in swine drinking water for control and treatment of colibacillosis and dysentery. This document corrects an editorial error.

EFFECTIVE DATE: April 11, 1984.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (formerly Bureau of Veterinary Medicine) (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-6266, appearing on page 10301, in the issue for Friday, March 11, 1983,

the following correction is made on page 10302: In the first column under § 520.1044 *Gentamicin sulfate oral solution*, in paragraph (d)(2), in the second line, the word "for" is inserted between the words "swine" and "control".

Dated: April 4, 1984.

William B. Bixler,

Associate Director for Surveillance and Compliance, Center for Veterinary Medicine.

[FR Doc. 84-9642 Filed 4-10-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-84-980; FR-1551]

Property Improvement and Manufactured Home Loans

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: Section 416 of the Housing and Urban-Rural Recovery Act of 1983 (1983 Act) amended the National Housing Act (NHA) to authorize the Secretary of HUD to increase maximum loan limits under the Title I loan insurance program for combination manufactured home and lot loans and for individual lot loans in high-cost areas. In no case, however, may the percentage increase in the maximum loan limit exceed the percentage by which the maximum mortgage amount of a one-family residence in the area is increased by the Secretary under the NHA's section 203(b) basic home mortgage insurance program. This rule implements this authority and sets forth a procedure whereby high-cost limits for specific areas will be published by Notice in the *Federal Register*. The rule also provides, consistent with existing statutory authority, for increased loan amounts in Alaska, Guam and Hawaii with respect to separate manufactured home loans, combination manufactured home and lot loans, and lot only loans.

Section 416 of the 1983 Act also sets new statutory maximum insurable loan limits for manufactured homes, combination manufactured home and lot loans, and loans for manufactured home lots only. The rule reflects these changes.

DATE: Effective Date: May 22, 1984.

FOR FURTHER INFORMATION CONTACT:

William L. Halpern, Acting Director, Office of Title I Insured Loans, Room 9160, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-6680. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This final rule revises a proposed rule which was published on June 28, 1982 in the *Federal Register* (47 FR 27867). The proposed rule was designed to implement Section 338 of the Omnibus Budget Reconciliation Act of 1981, which authorized the Secretary of HUD to increase, up to a maximum of \$7500, the loan limits otherwise applicable to the purchase of manufactured homes and lots or lots only. The rule designated specific high-cost areas throughout the country as eligible for the increased loan limits, with each area eligible for an increase of \$2500, \$5000 or \$7500, depending of the area's average single family home lot cost per square foot as compared to the national average. This rule updates the proposed rule to implement as well the provisions of Section 416 of the 1983 Act.

One public comment, from the Coordinating Council on Manufactured Housing Finance, was received with respect to the proposed rule. The Council generally applauded the high-cost area adjustments as a positive step toward making insured financing available to prospective homebuyers who otherwise would not qualify for loans because of unusually high land costs in their area of the country. The Council also made several specific recommendations.

The Council questioned the desirability of HUD's "fine tuning" the dollar increases allowable through a series of incremental \$2500 adjustments, rather than simple allowing a flat \$7500 "across the board" increase in any designated high-cost area. The Department believes that adding \$2500, \$5000 or \$7500 to the basic loan amount adds from 20 to 60 percent to the amount to which the homebuyer can obtain for a lot loan, or for the lot portion of a combination loan. This would be significant differentiation in maximum loan amounts (since the major factors in area cost differences tend to be land acquisition and site development). However, given the changes in the law included in the 1983 Act, this final rule departs from the proposed rule's incremental adjustment system in favor of directly linking high-cost area determinations for combination loans, and for lot only loans, to the determinations made for the section 203(b) basic home mortgage program.

The Coordinating Council also observed that only a very small percentage of the country is included on the list of high-cost areas. In fact, the high-cost areas identified in the proposed rule contained over 50 million people, or more than 22 percent of the U.S. population. This rule, however, by linking high-cost determinations to the section 203(b) program, will increase the number of affected areas.

Finally, the Coordinating Council noted that the requirement, set forth in the preamble of the proposed rule, for documenting a minimum of 100 home sales transactions in support of a change in the maximum loan limits may be overly burdensome to someone seeking to prove an area is a high-cost area, and the Council urged HUD to be more flexible in this requirement. The final rule establishes a more flexible procedure and incorporates this procedure into the body of the regulation. The procedure is identical to that used to provide for requesting increases in the section 203(b) single family home limits under the recently revised 24 CFR 203.18(b) (see 48 FR 54703). Use of an identical procedure is justified because of the statutory linkage between high-cost area limits for single family homes and for manufactured homes and lots established in the 1983 Act. Also, data accepted under 24 CFR 203.18b in justification of increased mortgage limits will also be directly relevant to a showing of need for increased loan limits for manufactured homes.

The 1983 Act revised the extent to which the Secretary is authorized to increase loan limits with respect to combination manufactured home and lot loans and lot only loans. Section 416(b) of the Act continues the authority of the Secretary to increase the maximum loan limits under the Title I loan insurance program for combination manufactured home and lot loans and individual lot loans located in high-cost areas. It provides, however, that in no case may the percentage increase in the maximum loan limit exceed the percentage by which the maximum mortgage amount of a one family residence in the area is increased by the Secretary under the Section 203(b) basic home mortgage insurance program.

Section 203(b)(2) of the National Housing Act provides, in part, that " * * * the Secretary may increase * * * dollar amounts on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in

the area due to high prevailing housing sales prices, but in no case may such limits, as so increased, exceed the lesser of (A) 133 1/2 per centum of the dollar amount specified or (B) in the case of a one-family residence, 95 per centum of the median one family house prices in the area, as determined by the Secretary. * * *. The regulation implementing the authority granted the Secretary to increase home mortgage limits under Section 203(b) is 24 CFR 203.18b. The most recent notice setting forth a listing of high-cost areas and a schedule of cost increases allowable in each area was published on December 6, 1983 at 48 FR 54703.

Section 416 of the 1983 Act permits the maximum dollar limits for combination loans and for manufactured home lot loans to be increased in a high-cost area by "not to exceed the percentage by which the maximum mortgage amount of a one-family residence in the area is increased by the Secretary under section 203(b)(2)." Since the statutory maximum dollar limits for combination loans is currently 80% of the maximum for a one-family residence under section 203(b)(2) (\$67,500 $\times$ 80% = \$54,000), and since the maximum manufactured home lot limit is 20% of the section 203(b)(2) limit (\$67,500 $\times$ 20% = \$13,500), the most readily calculated means of implementing section 416 is in terms of a percentage of the actual high-cost dollar limit assigned to a particular area under section 203(b)(2). For example, the current one-family residence mortgage limit for Stafford County, VA. is \$90,000. Under this rule, the maximum dollar limit for a manufactured home and lot in Stafford County would be \$90,000 $\times$.80, or \$72,000, and the maximum lot only limit would be \$90,000 $\times$.20, or \$18,000.

This rule implements the authority provided in Section 416 of the 1983 Act by providing for high-cost area percentage increases for combination manufactured home and lot only loans of up to a maximum of the percentage amount by which one-family residences in the area have been increased pursuant to 24 CFR 203.18b. The Notice accompanying this rule more specifically limits any increases to 80 percent of the amount the Secretary of HUD has allowed under the section 203(b) program for combination loans and, for lot only loans, 20 percent of the section 203(b) amount for the area.

The statutory authorization of a linkage between section 203(b) high-cost area increases and Title I manufactured home increases makes moot many of the specific provisions contained in the proposed rule previously published in the Federal Register. There are,

however, major similarities and a considerable degree of continuity with respect to these rules. Both rules limit high-cost area increases in the Title I manufactured home program to combination home and lot loans or lot only loans—i.e., loans wherein the cost of land is involved. Both base the justification for increased loan limits and the actual amount of any increase on the comparative cost of single family homes in various areas of the country. For these reasons, the Department believes final rulemaking to provide the public and the industry the benefit of these increases in the shortest possible time is the wisest and most desirable course. As in the case of section 203(b) mortgage limits, public participation is a continuing process with reference to these loan limits. One of the principal sources of information leading to periodic changes in high-cost area limits in data received from the public concerning local real estate costs. Accordingly, the loan limits arising out of this rulemaking are published for effect, but are open to public comment at any time.

As noted, earlier, this final rule also incorporates into the regulatory text a modified version of the procedure (previously set forth in the preamble of the proposed rule) for requesting changes in areawide limits. Any interested person is invited to request a change in the maximum loan limits in a case where the person considers that the designated maximum limits for any area (including areas currently subject to the basic loan limits) do not accurately reflect the extent to which moderate and middle income persons have limited housing opportunities because of high prevailing sales prices for housing. The request should be accompanied by documentation in support of alternative maximum loan limits. Where possible, such documentation should include (1) a sample listing of actual sales prices for both new and existing one-family homes, containing the address of each home, the sales price, the month and year of sale, and whether the home was new or existing; and (2) the actual or estimated median sales price for both new and existing homes in the sample. The sample should be representative of the total sales during a recent period of at least three months for the entire geographic area for which the request is made. In areas where the ratio of existing sales to new sales is three-to-one or greater, an increase in the loan limits may be based upon 95 percent of the average of the new and existing median sales prices.

Requests for adjustments to maximum loan limits, together with appropriate documentation, should be submitted to the appropriate HUD field office.

A Federal Register notice published to accompany this final rule announces that, beginning on the effective date of this rule, maximum limits for high-cost area manufactured home and lot loans and lot only loans will be determined by reference to the published one-family high-cost mortgage limits for the Section 203(b) program. The Notice references the most recently published complete listing of high-cost area limits (48 FR 54703, December 6, 1983) and provides instructions concerning how to derive the appropriate manufactured home limits. Future Notices published in accordance with 24 CFR 203.18b announcing high-cost area limits will include similar instructions regarding the use of a percentage formula to determine appropriate manufactured home limits.

In addition to providing for necessary increases in high-cost areas, this rule also makes appropriate revisions to 24 CFR 201.530 and 201.1504 to reflect the new maximum manufactured home limits set forth in section 416 of the Housing and Urban-Rural Recovery Act of 1983. The maximum insurable loan amount for the purchase of a manufactured home only is increased from \$22,500 (\$35,000 for two or more modules) to \$40,500 (whether single or multiple module). The maximum amount for financing the purchase of a manufactured home and suitability developed lot is increased from \$35,000 (\$47,500 for two or more modules) to \$54,000. The maximum amount for the purchase by a manufactured home owner of a suitably developed lot only is increased from \$12,500 to \$13,500. These statutory increases provide manufactured home loan limits equal to 60 percent of the section 203(b) single family home mortgage limit for the purchase of a manufactured home only, 80 percent of the 203(b) limit for the purchase of a combination home and lot, and 20 percent of the section 203(b) limit for the purchase of a manufactured home lot only. These revised limits apply to all manufactured homes irrespective of the number of modules. Since there is a considerable overlap in the unit sizes and sales prices between single-module and multi-module manufactured homes, the Congress has determined there is no longer any necessity for differing maximum loan amounts for single-module and multi-module homes.

In revising 24 CFR 201.530 and 201.1504 to incorporate these new

maximum loan limits, the clauses limiting financing assistance for used manufactured homes to those homes previously financed with a Title I loan are not changed in substance. Section 415 of the Housing and Urban-Rural Recovery Act of 1983 authorizes loan insurance for used manufactured homes if the home was constructed in accordance with the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974, whether or not the home was previously insured. This change will be effected in proposed rulemaking that the Department intends to publish soon.

Finally, the rule revises 24 CFR 531 to permit a 40-percent increase in otherwise applicable loan amounts where a manufactured home is purchased and located in Guam or Hawaii. Previously the regulation permitted this 40 percent increase only with respect to Alaska although, by statute, Guam and Hawaii were also eligible if the Secretary, by regulation, so authorized. The very high housing costs in both Guam and Hawaii clearly justify extending eligibility to these areas. In a similar manner the revision of 24 CFR 201.1504 includes a provision authorizing a 40-percent increase in otherwise applicable loan limits where a manufactured home and lot or lot only is purchased and located in Alaska, Guam or Hawaii.

The information collection procedure in this rule has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520. No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved by OMB and a follow-up notice indicating effectiveness is published in the Federal Register.

In accordance with regulations in 24 CFR 50.20(1), this rule is categorically excluded from an environmental assessment as otherwise required by the National Environmental Policy Act (42 U.S.C. 4321-4347).

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation, issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries; Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based

enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule implements a statutory directive that ordinarily-applicable Title I loan limits be raised where necessary to reflect higher costs of housing in particular areas. Its impact on small entities should be negligible.

This rule was listed as Item H-43-82 in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47431) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.162, Mortgage Insurance—Combination and Manufactured (Mobile) Home Lot Loan.

List of Subjects in 24 CFR Part 201

Health facilities, Historic preservation, Property improvement, Mobile homes, Manufactured homes and lots.

PART 201—PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS

Accordingly, 24 CFR Part 201 is amended as follows:

1. Paragraphs (a) and (c) of § 201.530 are revised to read as follows:

§ 201.530 Maximum loan amounts.

(a) *Basic limitation.* The proceeds of a single or multi-section manufactured (mobile) home loan shall not exceed the lesser of \$40,500 or 116 percent of the total price for such home, as stated in the manufacturer's invoice (ninety percent of the appraised value in the case of a used manufactured home previously financed with a loan under this part). The appraised value of a used manufactured home shall be determined by a HUD-approved manufactured home appraiser.

(c) The charges and fees authorized in paragraph (b) of this section may be added to the loan, if the inclusion of such items does not increase the total loan proceeds to more than \$40,500.

2. Section 201.531 is revised to read as follows:

§ 201.531 Loans in Alaska, Guam, or Hawaii.

The maximum loan amounts set out in

§ 201.530 may be increased by not to exceed 40 percent of the otherwise authorized maximum where the manufactured home is purchased and located in Alaska, Guam, or Hawaii.

3. Section 201.1504 is revised to read as follows:

§ 201.1504 Maximum loan amounts and terms.

(a) The maximum loan amount for a combination loan shall not exceed the lesser of:

(1) \$54,000 for the purchase of a single or multi-section manufactured home and a suitably developed lot; or

(2)(i) In the case of a new manufactured home, 130 percent of the total price of the home, as stated in the manufacturer's invoice, plus the actual cost of purchasing and installing a central air conditioning system or heat pump (if not installed by the manufacturer), plus the Secretary's estimate of the value of the manufactured home lot; or

(ii) In the case of a used manufactured home previously financed with a loan under this part, 90 percent of the Secretary's estimate of the value of the home, plus the Secretary's estimate of the value of the manufactured home lot.

(b) The maximum loan amount for the purchase of a suitably developed lot on which to place a manufactured home owned by the borrower shall not exceed the lesser of the Secretary's estimate of the value of the lot or \$13,500.

(c) The maximum term of the insured loan shall not exceed:

(1) 20 years and 32 days for a single section manufactured home and a suitably developed lot;

(2) 25 years and 32 days for a multi-section manufactured home and a suitably developed lot; or

(3) 15 years and 32 days for a suitably developed lot on which to place a manufactured home owned by the borrower.

(d) For any geographical area where the Secretary determines that increases in the otherwise applicable loan limits are necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities due to high prevailing housing sales prices, the Secretary may, from time to time, set loan limits that exceed the dollar limits specified in this section by publishing a Notice of the applicable dollar limits in the Federal Register. Except for Alaska, Guam and Hawaii, the dollar limits for a high-cost area shall not be increased by more than the percentage by which the maximum mortgage amount of a one-

family residence in the area is increased by Notice in the **Federal Register** in accordance with 24 CFR 203.18b. With respect to a manufactured home and suitably developed lot or a suitably developed lot only purchased and located in Alaska, Guam or Hawaii, the maximum loan amounts set out in paragraphs (a) and (b) of this section may be increased in an amount not to exceed forty percent by publishing a Notice of the applicable amounts in the **Federal Register**.

(e) If a person believes that the maximum loan limits for any area do not adequately reflect the extent to which moderate and middle income persons have limited housing opportunities because of high prevailing housing sales prices, the person may submit documentation in support of higher maximum loan limits. Where possible, the documentation should include: (1) A sample listing of actual sales prices for both new and existing one-family homes (including condominium sales prices), containing the address of each home, the sales price, the month and year of sale, and whether the home was new or existing; and (2) the actual or estimated median sales price for both new and existing homes in the sample. The sample should be representative of the total sales during a recent period of at least three months for the entire geographic area for which the request is made. In areas where the ratio of existing sales to new sales is three-to-one or greater, an increase in the loan limits may be based upon 95 percent of the average of the new and existing median sales prices.

(f) Requests for higher maximum loan limits, together with supporting documentation, should be sent to the appropriate HUD field office. The field office will forward the request and supporting documentation, with the field office's recommendation, to the Commissioner for determination.

Authority: Sec. 2(b), National Housing Act (12 U.S.C. 1703(b)) and Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: April 4, 1984.

Maurice L. Barksdale,
Assistant Secretary for Housing—Federal
Housing Commissioner.

[FR Doc. 84-9682 Filed 4-10-84; 8:45 am]

BILLING CODE 4210-27-M

[Docket No. N-84-1370; FR1551]

24 CFR Part 201

Property Improvement and Manufactured Home Loans

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Rule-related notice.

SUMMARY: Today's edition of the **Federal Register** includes a final rule amending Part 201 of title 24, Code of Federal Regulations to provide for new high-cost area loan limits for combination manufactured home and lot loans and for individual lot loans.

DATE: This notice implements the rule and explains the means of calculating high-cost manufactured home loan limits for particular areas.

EFFECTIVE DATE: May 22, 1984.

FOR FURTHER INFORMATION CONTACT: William L. Halpern, Acting Director, Office of Title I Insured Loans, Room 9160, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-6680. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: By final rulemaking published today elsewhere in today's issue of the **Federal Register** the Department of Housing and Urban Development implemented authority provided in section 416 of the Housing and Urban-Rural Recovery Act of 1983 (Act) regarding the setting of loan limits for insured manufactured home and lot loans, and lot only loans, under section 2 of the National Housing Act (NHA).

Under section 416 of the Act, the Secretary is permitted to make determinations of high-cost area limits for manufactured home loans involving the purchase of a manufactured home and lot, or a lot only, by reference to high-cost area limits established by the Secretary for one-family residential mortgages under section 203(b)(2) of the NHA. Manufactured home and lot, or lot only, dollar limits may be increased by "not to exceed the percentage by which the maximum mortgage amount of a one-family residence in the area is increased by the Secretary under section 203(b)(2)." The statutory maximum loan limit for a manufactured home and lot in areas other than high-cost areas is set under the Act at \$54,000. That amount is 80 percent of the maximum mortgage amount for a one-family dwelling insured under section 203(b) of the NHA. Similarly, the Act increases the statutory maximum dollar limit for a manufactured home lot loan to \$13,500

for areas other than high-cost areas. That amount is 20 percent of the section 203(b) maximum of \$67,500.

Accordingly, the Secretary has determined that the most appropriate means of implementing section 416 of the Act is by application of a simple formula reflecting the relationship between these statutorily-set maximum mortgage and loan limits. For each area where the Department has published high-cost limits under section 203(b), other than Alaska, Guam or Hawaii, high-cost loan limits under section 2(b) of the National Housing Act will be determined as follows:

1. For combination manufactured home and lot loans (section 2(b)(1)(D) of the NHA), 80 percent of the one-family area-wide mortgage limit set out in the Notice published on December 6, 1983 at 48 FR 54703, for each market area designated in that Notice as a high-cost area (except Alaska, Guam and Hawaii).

2. For lot only loans (section 2(b)(1)(E) of the NHA), 20 percent of the one-family area-wide mortgage limit set out in the Notice published on December 6, 1983 at 48 FR 54703, for each market area designated in that Notice as a high-cost area (except Alaska, Guam and Hawaii).

Alaska, Guam and Hawaii high-cost loan limits are exceptions to the 80% and 20% formulations set out above, because published high-cost limits for those jurisdictions are derived, in part, from statutory authority other than section 203(b) of the NHA. For that reason, loan limits for manufactured homes, combination manufactured homes and lots, and for lots only, in those jurisdictions are being set in this Notice in accordance with section 214 of the NHA. The maximum manufactured home loan limit for Alaska, Guam and Hawaii will be \$66,700, the maximum combination loan limit will be \$75,600, and the maximum lot only limit will be \$18,900. Each of these dollar limits represents 140 percent of the otherwise applicable maximum dollar limits set forth in section 2(b) of the National Housing Act.

December 6, 1983 was the date of the most recent Notice updating high-cost area mortgage limits. In future notices of high-cost area limits published in the **Federal Register** as rule-related notices under the authority of 24 CFR 203.18b, specific instructions for the calculation of loan limits under section 2(b) of the NHA will also be included.

As an example of the applicability of this Notice, the first high-cost area noted in the December 6, 1983 **Federal Register**

Notice (48 FR 54703, 54705) is the Boston, MA, PMSA. The one-family mortgage limit published for that area is \$72,700. Under this Notice, the maximum loan limit for a combination manufactured home and lot loan would be \$58,160 (\$72,700 $\times$.80). The maximum lot only loan limit in the Boston PMSA would be \$14,540 (\$72,700 $\times$.20).

Dated: April 4, 1984.

Maurice L. Barksdale,
Assistant Secretary for Housing—Federal
Housing Commissioner.

[FR Doc. 84-0851 Filed 4-10-84; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Parts 203 and 234

[Docket No. R-84-1090; FR 1722]

Mutual Mortgage Insurance and Condominium Ownership Mortgage Insurance

AGENCY: Office of Assistant Secretary
for Housing—Federal Housing
Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule (1) codifies the procedures for requesting changes to single family maximum mortgage limits in "high-cost" areas, (2) amends the potential condominium maximum insurable amount as recently authorized by the Housing and Urban-Rural Recovery Act of 1983, (3) removes two Appendices listing maximum area mortgage limits from the Code of Federal Regulations, and (4) codifies the current practice of establishing area mortgage limits by Notice published in the Federal Register. These procedures enable the Commissioner to respond readily, as needs arise, to changes in sales prices in geographic areas where there are limited housing opportunities because of high housing sales prices.

EFFECTIVE DATE: May 22, 1984.

FOR FURTHER INFORMATION CONTACT:
John J. Coonts, Director, Single Family
Development Division, Department of
Housing and Urban Development, Room
9270, 451 Seventh Street, SW.,
Washington, D.C. 20410, (202) 755-6720.
(This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1701-1749) authorizes HUD/FHA to insure mortgages for single family residences. These include one- to four-family residences (see section 203) and one-family units in condominiums (see

section 234(c)). The Housing and Community Development Act of 1980 amended the NHA to permit HUD to change the maximum mortgage amounts under these programs to reflect regional differences in the cost of housing. In addition, the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, November 30, 1983) (1983 Act) authorizes HUD to provide for maximum mortgage limits for one-family units in condominiums which are the same as maximum mortgage limits for one-family residences under section 203(b) of the NHA. Section 214 of the NHA provides special high-cost limits for Alaska, Guam, and Hawaii.

Section 203 Programs. Section 203(b) of the NHA is the seminal provision for the insurance of mortgages covering single family residences, and many other NHA sections adopt the basic provisions contained in section 203. Other sections to which this document applies include: Section 203(k), loan insurance for rehabilitation of a structure used primarily as a residence; section 213, cooperative housing insurance; section 220, rehabilitation and neighborhood conservation housing; section 222, mortgage insurance for servicemen; section 240, financing purchases for homeowners of the fee simple title to property on which homes are located; section 244, coinsurance; section 245, graduated payment mortgages; and sections 809 and 810, armed services housing mortgage insurance.

Under section 203(b), the Secretary may increase maximum mortgage limits on an area-by-area basis if the Secretary deems it necessary after considering the extent to which moderate- and middle-income persons have limited housing opportunities in the area due to high prevailing housing prices.

Section 203(b) provides that the increased limit for any area may not exceed the lesser of the following:

A. 133 1/3% of \$87,500 in the case of a one-family residence; 133 1/3% of \$76,000 in the case of a two-family residence; 133 1/3% of \$92,000 in the case of a three-family residence; 133 1/3% of \$107,000 in the case of a four-family residence.

OR

B. 95% of the median one-family house price in the area, as determined by the Secretary, for a one-family residence; 107% of that median for a two-family residence; 130% of that median for a three-family residence; 150% of that median for a four-family residence.

The statutory national dollar limits stated in A., above, are specified in 24 CFR 203.18(a) for mortgages insured under section 203 of the NHA. In

accordance with 24 CFR 203.18b, the limits have been increased in designated areas on five occasions in the last two years. See 47 FR 917 (January 7, 1982); 47 FR 52570 (November 22, 1982); 48 FR 15724 (April 12, 1983); 48 FR 33351 (July 21, 1983) and 48 FR 54703 (December 6, 1983). The area limits established in January 1982 and before are set forth in Appendix A of 24 CFR Part 203. The December 6, 1983 document contained an updated list of all increased area limits.

Section 234 Program. Section 234 of the NHA authorizes mortgage insurance for one-family units in condominium projects. Under this section, the Secretary may increase the maximum mortgage amount on an area-by-area basis if the Secretary deems it necessary after considering the extent to which moderate- and middle-income persons have limited housing opportunities in the area due to high prevailing housing prices. Section 420 of the 1983 Act amended section 234 to allow the Secretary to increase one-family condominium maximum mortgage limits to those provided for one-family homes under section 203(b)(2). Thus, "high-cost" increases for condominiums may not exceed the lesser of the following:

A. 133 1/3% of \$87,500; or

B. 95% of the median one-family house price in the area, as determined by the Secretary.

The statutory national dollar limit is specified in 24 CFR 234.27(a) for mortgages insured under section 234 of the NHA. In accordance with 24 CFR 234.27(b), the limits have been increased in designated areas on several occasions. An updated list of increased area-wide limits, which includes changes adopted through December 1983, was published at 48 FR 54703. The area limits established in January 1982 and before are set forth in Appendix A of 24 CFR Part 234.

Section 214. In addition to the "high-cost" limits discussed above, the NHA provides special limits for Alaska, Guam, and Hawaii. Section 214 states that if the Secretary determines that, because of higher prevailing costs, it is not feasible to construct dwellings in those areas within the maximum mortgage limits without sacrificing sound standards of construction, design or livability, the mortgage limits may be increased beyond the statutory "high-cost" area limits indicated above. These limits, however, may not exceed the otherwise applicable amounts by more than one-half. Regulatory provisions regarding special high-cost limits for

Alaska, Guam, and Hawaii are found at 24 CFR 203.29 (single family residences) and 234.49 (one-family units in condominium projects). An updated list of limits for these areas, which includes changes through December 1983, was published at 48 FR 54703.

This Document

The Code of Federal Regulations currently contains an Appendix A to each of Parts 203 and 234, that sets forth increased mortgage limits in designated geographic areas. Regulatory provisions in both Parts 203 and 234 authorize the Commissioner to change statutory dollar limitations specified in the regulation "or in Appendix A * * * by publishing the dollar limitation in the Federal Register."

As noted above, area dollar limitations have been raised more often than annually and, as a result, the list in Appendix A tends to be out-of-date. Accordingly, the Department is removing Appendix A from both Part 203 and Part 234. The complete list of area-wide limits will be updated and republished in a rule-related notice in the Federal Register at least annually.

The regulatory text in Parts 203 and 234 is also being revised to reflect more clearly the current practice under which changes in maximum mortgage limits in "high-cost" areas are established by rule-related notice published in the Federal Register. Because rule-related notices appear in the "Rules and Regulations" section of the Federal Register, these new mortgage limits documents will be carried in all of the Federal Register indexes. This should ensure quick accessibility to the information on an ongoing basis.

As discussed previously, section 420 of the 1983 Act authorizes the Department of establish "high-cost" limits for condominium units that are the same as those for one-family homes provided for in section 203(b)(2) of the NHA. The Department has determined that making higher limits possible for condominiums (if the Commissioner determines that there are limited housing opportunities because of high housing sales prices) will benefit moderate- and middle-income persons wishing to purchase homes. For this reason, the Department is amending 24 CFR 234.27(a) to parallel the one-family provisions contained in 24 CFR 203.18(a).

This final rule also incorporates into 24 CFR 203.18b and 234.27 the procedure previously contained in notices and described below for requesting changes in area limits. Under this procedure, any party is invited to request a change in a maximum mortgage limit if the party

believes that the otherwise applicable limit for the area (whether or not it contains a "high-cost" adjustment) does not accurately reflect the extent to which moderate- and middle-income persons have limited housing opportunities because of high prevailing housing sales prices. Any persons may submit documentation in support of an alternative maximum mortgage limit. Where possible, the documentation should include: (1) A sample listing or actual sales prices for both new and existing one-family homes, including condominium sales prices. This listing should contain a brief address of each property, county location, the sales price, month and year of sale and whether the property is new or existing; and (2) the actual or estimated median sales price for all new and existing home sales included in the sample. Any sample should be representative of the total sales that were made during a recent period of at least three months for the entire geographic area for which the request is made. In areas where the ratio of existing sales to new sales is three-to-one or greater, an increase in the mortgage limit may be based on 95 percent of the average of the new and the existing median sales prices. Therefore, in these areas, the documentation may also include separate median sales prices for both the new and existing homes.

Requests for adjustments to maximum mortgage limits, together with supporting documentation, should be sent to the appropriate HUD field office. The field office will forward the documented request and supporting material, with the field office's recommendations, to the Commissioner for determination.

In addition, the rule clarifies 24 CFR 203.29 and 234.49 by specifically stating that the Commissioner has authority to increase statutory mortgage limits in Alaska, Guam, or Hawaii in amounts not to exceed the applicable maximum (including any "high-cost" increases) by more than one-half thereof. These sections also include provision for parties to submit documentation in support of alternative maximum mortgage limits where high costs make it infeasible to construct dwellings without sacrificing sound standards of construction, design or livability.

The Administrative Procedure Act (APA) (5 U.S.C. 551-559) establishes procedures for agencies to follow in promulgating rules. The requirements for informal rulemaking include the opportunity for prior notice and written comment before the adoption of a final rule (see 5 U.S.C. 553). The APA also provides exemptions from this proposed

rulemaking requirement in certain circumstances.

The portions of this rule that amend agency procedure are exempted by 5 U.S.C. 553(b)(A) from the proposed rulemaking requirements of the APA. Other portions of this rule implement section 420 of the Housing and Urban-Rural Recovery Act of 1983 (1983 Act). These amendments impose no burden on the public, but rather provide new benefits to purchasers of condominiums. For this reason, the Department has determined that implementation of the 1983 Act provision falls within the proposed rulemaking exemption contained in 5 U.S.C. 553(a)(2).

As a matter of policy, HUD frequently provides for public participation in rulemakings of this type. However, the Department has determined that good cause exists for issuing this rule without prior opportunity for public comment. As stated before, this rule either conforms the Department's regulations to current practice or implements a specific statutory provision. Therefore, the Department has determined that it is contrary to the public interest to delay implementation of these changes.

Other Matters

By a separate rulemaking, the Department may make additional changes to the loan-to-value ratio sections of 24 CFR Parts 203 and 234 set out in this rule. Section 424 of the 1983 Act authorizes the Department to increase the maximum loan-to-value ratio for mortgages insured to cover one-to four-family residences occupied by the mortgagor, that have an appraised value at the time the mortgage is accepted for insurance of not more than \$50,000. The increased loan-to-value ratio would allow 97 percent of the entire appraised value to be insured by HUD, thus reducing the downpayment requirement of the mortgagor. Authorization to implement this provision is conditioned upon the Secretary of HUD making a finding that implementation of the provision will not adversely affect the actuarial soundness of the Federal Housing Administration mortgage insurance program. The Department has not yet made this determination.

The information collection procedure in this rule was submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 and has been assigned OMB Control Number 2502-0302.

In accordance with regulations in 24 CFR 50.20(1), this rule is categorically excluded from an environmental

assessment as required by the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4347).

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. As noted above, the changes effected by this rule do not alter the substantive rights or interests of any entities, including small entities.

This rule was listed in the Department's Semi-Annual Agenda of Regulations published on October 17, 1983 (48 FR 47418, 47434) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are, for Part 203, 14.117 and 14.118, and for Part 234, 14.133.

List of Subjects

24 CFR Part 203

Loan programs: housing and community development mortgage insurance.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership.

Accordingly, 24 CFR Parts 203 and 234 are amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. Appendix A to Part 203 is removed.
2. In § 203.18b, paragraph (a) is revised to read as follows:

§ 203.18b Increased mortgage amount.

(a) For any geographic area in which the Commissioner finds that moderate- and middle-income persons have limited housing opportunities due to high prevailing housing sales prices, the Commissioner may from time to time set

mortgage limits that exceed the dollar limitations specified in § 203.18(a) to the extent the Commissioner deems necessary by publishing the applicable dollar limitations in a Notice in the Federal Register.

(1) If a party believes that the mortgage limit for any area (including an area for which the mortgage limits contained in § 203.18(a) apply), does not accurately reflect the extent to which moderate- and middle-income persons have limited housing opportunities because of high prevailing housing sales prices, the party may submit documentation in support of an alternative mortgage limit. Where possible, the documentation should include:

(i) A sample listing of actual sales prices for both new and existing one-family homes, including condominium sales prices. This listing should contain a brief address of each property, county location, the sales price, month and year of sale and whether the property is new or existing; and

(ii) The actual or estimated median sales price for all new and existing home sales included in the sample.

Any sample should be representative of the total sales that were made during a recent period of at least three months for the entire geographic area for which the request is made. In areas where the ratio of existing sales to new sales is three-to-one or greater, an increase in the mortgage limit may be based on 95 percent of the average of the new and the existing median sales prices.

Therefore, in these areas, the documentation may also include separate median sales prices for both the new and existing homes.

(2) Requests for alternative mortgage limits, together with the supporting documentation, should be sent to the appropriate HUD field office. The field office will forward the request and supporting material, with the field office's recommendation, to the Commissioner for determination.

3. By adding, at the end of § 203.18b, the following:

(Approved by OMB and assigned OMB control number 2502-0302)

4. In § 203.29, paragraphs (b) and (c) are redesignated as (c) and (d), respectively, a new paragraph (b) is added, and paragraph (a) is revised to read as follows:

§ 203.29 Eligible mortgages in Alaska, Guam, or Hawaii.

(a) If the Commissioner finds that, because of higher prevailing costs in

Alaska, Guam, or Hawaii, it is not feasible to construct dwellings within the maximum mortgage limits provided in this part without sacrificing sound standards of construction, design, or livability, the Commissioner may increase the principal obligation of mortgages insurable for those areas under this part by the publishing in the Federal Register a Notice stating the amounts necessary to compensate for such costs, but not to exceed, in any event, the otherwise applicable maximum (including any high-cost area increases) by more than one-half thereof.

(b) If a party believes that the otherwise applicable mortgage limit needs to be increased to reflect the extent to which high costs make it infeasible to construct dwellings without sacrificing sound standards of construction, design or livability, the party may submit documentation in support of an alternative mortgage limit. This documentation should include actual or estimated costs of such items as design, construction, materials, and labor. In addition, actual sales prices of new homes may be submitted, together with any other documentation requested by the Commissioner. Requests for alternative mortgage limits, together with supporting documentation should be sent to the appropriate HUD field office. The field office will forward the request and supporting material, with the field office's recommendation, to the Commissioner for determination.

5. By adding, at the end of § 203.29, the following:

(Approved by OMB and assigned OMB control number 2502-0302)

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

6. Appendix A to Part 234 is removed.

7. In § 234.27, paragraphs (a) and (b) are revised to read as follows:

§ 234.27 Maximum mortgage amounts.

(a) *Occupant mortgagors.* Except for "high-cost" mortgage limits provided for in paragraph (b) of this section, a mortgage executed by a mortgagor who occupies the unit shall not exceed the lesser of the amounts in paragraphs (a)(1) and (a)(2) or (a)(1) and (a)(3) of this section, as follows:

(1) *Dollar limitation.* A dollar limitation of \$67,500.

(2) *Loan-to-value limitation—approval before construction.* A loan-to-value limitation of 97 percent of the first \$25,000 of the Commissioner's estimate of the appraised value of the family unit

as of the date the mortgage is accepted for insurance. (100 percent of \$25,000 of such value or the sum of such value not in excess of \$25,000 and the items of prepaid expense approved by the Commissioner minus \$200, whichever appraised amount or sum is the lesser in the case of a mortgagor meeting the veteran qualification provided in § 203.18(b) of this chapter), and 95 percent of such value in excess of \$25,000 if the mortgage covers a dwelling which:

- (i) Was approved for mortgage insurance before the beginning of construction, or
- (ii) Was approved for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs before the beginning of construction, or
- (iii) Was completed more than one year before the date of the application for mortgage insurance, or
- (iv) Is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance before the beginning of construction.

(3) *Loan-to-value limitation-no previous approval.* A loan-to-value limitation of 90 percent of the entire appraised value of the dwelling, as of the date the mortgage is accepted for insurance, if the dwelling does not meet the requirements of paragraph (a)(2) of this section.

(b) *Increased mortgage amount.* For any geographic area in which the Commissioner finds that moderate- and middle-income persons have limited housing opportunities due to high prevailing housing sales prices, the Commissioner may from time to time set mortgage limits that exceed the dollar limitation specified in paragraph (a)(1) of this section to the extent the Commissioner determines to be necessary, by publishing the applicable dollar limitations in a Notice in the *Federal Register*. The increased dollar limitation shall not exceed the lesser of 133.33 percent of the amount specified in paragraph (a)(1) of this section, or 95 percent of the median one-family house price in the area as determined by the Commissioner.

(1) If a party believes that the mortgage limit for any area (including an area for which the mortgage limit contained in paragraph (a)(1) of this section applies), does not accurately reflect the extent to which moderate- and middle-income persons have limited housing opportunities because of high prevailing housing sales prices, the party may submit documentation in support of an alternative mortgage limit. Where

possible, such documentation should include:

(i) A sample listing of actual sales prices for both new and existing one-family homes, including condominium sales prices. This listing should contain a brief address of each property, county location, the sales price, month and year of sale and whether the property is new or existing; and

(ii) The actual or estimated median sales price for all new and existing home sales included in the sample.

Any sample should be representative of the total sales that were made during a recent period of at least three months for the entire geographic area for which the request is made. In areas where the ratio of existing sales to new sales is three-to-one or greater, an increase in the mortgage limit may be based on 95 percent of the average of the new and the existing median sales prices.

Therefore, in these areas, the documentation may also include separate median sales prices for both the new and existing homes.

(2) Requests for alternative mortgage limits, together with supporting documentation, should be sent to the appropriate HUD field office. The field office will forward the request and supporting material, with the field office's recommendation, to the Commissioner for determination.

8. By adding, at the end of § 234.27, the following:

(Approved by OMB and assigned OMB control number 2502-0302)

9. Section 234.49 is amended by redesignating paragraph (b) as (d), and by adding new paragraphs (b) and (c) as follows:

§ 234.49 Eligible mortgages in Alaska, Guam, or Hawaii.

(b) If the Commissioner finds that, because of higher prevailing costs in Alaska, Guam, or Hawaii, it is not feasible to construct dwellings within the maximum mortgage limits provided in this part without sacrificing sound standards of construction, design, or livability, the Commissioner may increase the principal obligation of mortgages insurable for those areas under this part by publishing in the *Federal Register* a Notice stating the amounts necessary to compensate for such costs, but not to exceed, in any event, the otherwise applicable maximum (including any high-cost area increases) by more than one-half thereof.

(c) If a party believes that the otherwise applicable mortgage limit

needs to be increased to reflect the extent to which high costs make it infeasible to construct dwellings without sacrificing sound standards of construction, design or livability, the party may submit documentation in support of an alternative mortgage limit. This documentation should include actual or estimated costs of such items as design, construction, materials, and labor. In addition, actual sale prices of new homes may be submitted, together with any other documentation requested by the Commissioner. Requests for alternative mortgage limits, together with supporting documentation, should be sent to the appropriate HUD field office. The field office will forward the request and supporting material, with the field office's recommendation, to the Commissioner for determination.

10. By adding, at the end of § 234.49, the following:

(Approved by OMB and assigned OMB control number 2502-0302)

(Secs. 203, 211, 214, 234, National Housing Act (12 U.S.C. 1709, 1715b, 1715d, 1715y); Sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)))

Dated: April 5, 1984.

Maurice L. Barksdale,
Assistant Secretary for Housing—Federal
Housing Commissioner.

[FR Doc. 84-8635 Filed 4-10-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 224

Regulations Which Govern Federal Process Agents of Surety Companies

AGENCY: Bureau of Government Financial Operations, Fiscal Service, Treasury.

ACTION: Revision of Statute Citations.

SUMMARY: The Department of the Treasury is revising its surety regulations at 31 CFR Part 224 in order to reflect statutory citation changes as a result of recodification.

EFFECTIVE DATE: April 11, 1984.

FOR FURTHER INFORMATION CONTACT: Mrs. Terry Boyer, Operations Staff (Surety), Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226, (202-634-5763)

SUPPLEMENTARY INFORMATION:

List of Subjects in 31 CFR Part 224

Surety bonds.

In order to comply with the recodification of Title 6 of the United States Code to Title 31, enacted September 13, 1982, 31 CFR Part 224 is hereby amended as follows:

PART 224—[AMENDED]

1. By revising the "Authority" to read:

Authority: 31 U.S.C. 9306, unless otherwise noted.

2. By revising § 224.1 to read:

§ 224.1 Statutory provision.

The rules and regulations in this part are prescribed for carrying into effect Section 1 of the act approved July 30, 1947 (31 U.S.C. 9306).

3. By revising the statute citation in the Power of Attorney form in § 224.4 to read:

§ 224.4 Power of Attorney; form.

* * * desiring to comply with Section 9306 of Title 31, United States Code, hereby constitutes and appoints * * *

§ 224.7 [Amended]

4. By revising the address in § 224.7 to read: * * * Surety Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

* * *

Department Circular No. 901 is also at this time amended to reflect these technical changes.

April 2, 1984.

Carole Jones Dineen,
Fiscal Assistant Secretary.

[FR Doc. 84-9449 Filed 4-10-84; 8:45 am]

BILLING CODE 4810-35-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM83-6; Order No. 557]

Order Amending Rules of Practice and Procedure

April 5, 1984.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This final rule requires the Postal Service to file a report of changes in cost data collection systems ninety days prior to implementation of changes in procedures employed by the Postal Service to collect and process data. Only changes in data collecting, processing and reporting which result in the reaggregation or aggregation of existing data are required to be disclosed in the report. Subpart 6 of the Commission's rules of practice, 39 CFR 3001.102, is being amended to indicate

that a miscellaneous report giving notice of changes in data collection systems is to be filed with the Commission by the Postal Service.

EFFECTIVE DATE: June 1, 1984.

FOR FURTHER INFORMATION CONTACT:

David F. Stover, General Counsel, 2000 L Street, N.W., Washington, D.C. 20268-0001, (telephone) (202) 254-3824.

SUPPLEMENTARY INFORMATION: The Postal Rate Commission (Commission) is an independent regulatory body whose major responsibility is to hold public hearings when the Postal Service proposes changes in postal rates and classification of mail. After hearings on the record pursuant to 39 U.S.C. 3624, the Commission transmits a recommended decision to the Governors of the Postal Service who may approve, allow under protest, reject or modify the Commission's recommended decision. 39 U.S.C. 3622-3625.

In reaching recommendations on rates and classification matters, the Commission relies on cost data developed by the Postal Service's data collection systems. Changes in these systems may result in the collection of new data or the combination, reconfiguration or elimination of data previously available. This process could possibly result in data critical to the allocation of costs consistent with past practices to classes, subclasses and rate categories of mail being no longer available to the Commission. Whether these changes to the data systems result in data of greater value for the purpose of cost allocation, over that previously provided, may not be ascertainable until the data are reviewed by the Commission in the context of a § 3624 proceeding. However, by the time the Commission has the opportunity to review these changes, current data equivalent to that previously provided may no longer be available and thus the Commission could be unable to utilize costing precedents.

To insure that the Commission would be able to follow costing precedent, on October 25, 1982, the Commission issued a Notice of Proposed Ruling in Docket No. RM83-2 which *inter alia* proposed amending section 54(h)(10) of its rules of practice (39 CFR 54(h)(10)) to require the Postal Service to collect and provide, at least as supplemental data, whatever information is necessary to follow past precedent. 47 FR 49667 (November 2, 1982). Taking account of the Postal Service's claim that such a rule would require costly duplication in the Service's data systems, the Commission revised its October 25, 1982 proposed rule substantially in a Notice of Proposed Rulemaking in Docket No.

RM83-6. 48 FR 46545 (October 13, 1983). Docket No. RM83-6 had been instituted in January 1983, to provide a vehicle for considering problems associated with the Commission's proposed amendment to section 54(h)(10).

In Docket No. RM83-6, the Commission proposed amending its rules of practice to require the Postal Service to provide advance notice of changes in its data collection and reporting systems which would preclude the Commission from attributing and assigning costs consistent with procedures developed in prior Commission proceedings. Upon receipt of notice of proposed changes, the proposed rule would have allowed the Commission to hold hearings to consider and possibly reject the proposed data collection system changes. Rejection of proposed changes under the proposed rule would have resulted in requiring the Postal Service to provide cost segment data which would allow the Commission to attribute and assign costs consistent with past practices.

The Commission anticipated that the provisions to the proposed rule reflected in the October 4, 1983 Notice of Proposed Rulemaking, would correct many of the problems associated with the original proposal. However, in the Postal Service's opinion, the revised rule continued to be unworkable. Thus, the Service requested, and the Commission granted the Service's request for a legislative-type hearing to consider the problems associated with the Commission's proposed rule. Through a legislative-type hearing, the Postal Service would be able to present its views as to the infeasibility of the Commission participating in the process of changing the Postal Service's data collection systems.

On March 14, 1984, the Commission held a legislative-type hearing to provide the Postal Service an opportunity to orally elaborate on problems it had with the Commission's proposed Rule 54(h)(10). At that hearing, the Service explained the lengthy process required to effectuate changes in Postal Service data collection forms by the beginning of a fiscal year, October 1. Focusing on Form 2600, the Service's primary cost data collection form, the Service indicated that from December to March of the preceding year, headquarters personnel communicated with staff in the regions to solicit and discuss proposed changes in Form 2600. After extensive study of proposals, in March or April, a modified Form 2600 is developed for printing. The Service then contacts the Census Bureau to create an "art copy." After this "art

copy" is prepared in April or May, the Government Printing Office begins printing the form. Printing requires approximately two months.

During the same period, the Service begins the process of modifying training manuals and the creation of training material. From June through September, postal personnel are trained in the use of the revised forms. It is estimated that approximately 600 data collection supervisory personnel are trained at six seminars.

The time period required to develop data collection forms, train personnel, revise manuals and print new forms does not appear to leave sufficient latitude for the Service to give notice of changes to the Commission and for the Commission to conduct proceedings evaluating the changes as contemplated by the Commission's proposed Rule 54(h)(10). Consequently, the Commission has decided to modify the thrust of the Commission's earlier proposals. Instead of a rule which contemplates the possibility of active Commission participation in changes in data collection systems, the rule adopted is passive requiring the Service to simply notify the Commission of changes in data collection systems. This objective is achievable by amending section 102 of the Commission's rules of practice to provide for the filing of a miscellaneous report giving notice of changes in data systems. Accordingly, Rule 54 does not need to be amended. By this means, the Commission will be able to be informed in advance to changes in data systems, without interfering with the orderly evolution of changes in Postal Service data systems.

At the legislative-type hearing, the Service requested clarification as to what type of changes in data systems were contemplated by the Commission's proposed rule. As the proposed rule is simply a notice provision, it is an easy task for the Service to give notice to the Commission of changes at the same time it gives notice of these changes to those responsible for collecting and processing data. Nevertheless, the rule contemplates that notice be given of changes only when the change may result in aggregations, reaggregations, or refinements to the Service's data collection systems. Notice need not be given of changes which result only in a further disaggregation of data. In this regard the rule retains the 90-day advance notice provision as a guideline. We expect that on occasion, for practical reasons, the Service will not meet this standard.

Finally, at the legislative-type hearing, the Service was particularly troubled by the discussion in the October 4, 1984

Notice of Proposed Rulemaking referring to "methodological precedent". However, the proposed rule itself did not use that language. Instead, the rule stated that the Service shall give 90 days notice "prior to implementing changes in data collection, data processing, or manner of data presentation that would preclude the Commission from attributing and assigning cost segments consistent with the methods used by the Commission to attribute and assign costs in the most recent omnibus rate case." The Commission believes that this definition is a satisfactory description of the Commission's intent.

However, as classification, the Commission does not contemplate that notice be given every time headquarters personnel clarifies or makes minor changes in instructions to field or processing personnel. As with any new rule, it is possible that uncertainty may arise in particular situations. In those instances, the Service should provide the required notice and seek an opinion as to whether in the future the reporting requirement contemplates notice of the subject change.

Impact of proposed changes. Pursuant to Executive Order 12291, the Commission finds that the rule change does not constitute a "major rule." The change deals with reporting requirements and it is not anticipated that it could result in an appreciable change in the costs of participating in Commission proceedings. Nor will the change have any adverse effect on competition, employment or the other factors listed in E.O. 12291.

The above analysis, that the proposed rule change does not constitute a major rule for purposes of E.O. 12291, applies with equal force to the regulatory Flexibility Act. In the notice of proposed rulemaking the Commission stated that it would welcome comments as to whether the rule could have a significant economic impact on a substantial number of small entities, as well as suggestions as to how to minimize any such impact. The Commission received no comments addressing this issue.

List of Subjects in 39 CFR Part 3001

Administration practice and procedure.

PART 3001—RULES OF PRACTICE AND PROCEDURE

We hereby amend Rules 102(d) of our rules of practice by revising § 3001.102(d)(4):

§ 3001.102 Filing reports.

* * * * *

(4) Notice of Changes in Data Reporting Systems (90 days before implementing changes in data reporting systems).

(39 U.S.C. 3603, 3622, 3623)

By the Commission.

Charles L. Clapp,
Secretary.

[FR Doc. 84-0604 Filed 4-10-84; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[OA-FRL-2563-71]

Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency.

ACTION: Deviation to rule.

SUMMARY: Under the authority of 40 CFR 30.1004, the Environmental Protection Agency (EPA) has issued a class deviation from 40 CFR 35.935-9 for EPA's "Construction Grants for Wastewater Treatment Works" program. Section 35.935-9 requires Regional Administrators to annul or terminate Step 3 grants on which grantees do not initiate construction within 12 months of grant award. We are publishing the class deviation with this document.

EFFECTIVE DATE: The class deviation was effective on March 30, 1984.

FOR FURTHER INFORMATION CONTACT:

W. Scott McMoran, Grants Administration Division (PM-216), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202-382-5293).

SUPPLEMENTARY INFORMATION: 40 CFR 35.935-9 of EPA's construction grant regulation requires Regional Administrators to annul or terminate grants for wastewater treatment construction projects which grantees do not begin constructing within 12 months of approval of plans and specifications under a Step 2+3 grant or within 12 months of award of a Step 3 grant and permits Regional Administrators to approve a six-month extension when justified by the grantee in writing. EPA established these deadlines as a means to deal with grantees that did not proceed with construction in a timely manner.

We have determined that as many as 600 projects exceeded the maximum 18 month deadline for beginning construction. Regional Administrators

did not annul or terminate any of these projects, but most of them are now under construction. In his October 12, 1983, report, the EPA Inspector General surveyed all delayed projects. The Inspector General concluded that grantee delays in initiating construction significantly reduced the funds available for construction of wastewater treatment projects.

Regional Administrators generally did not annul or terminate grants if they knew the grantees were diligently attempting to place them under construction. The most common causes of delays were changed conditions, local funding shortages, intermunicipal agreement problems, site acquisition problems, and public opposition to projects. Regional Administrators believed that these causes justified most delays and viewed termination or annulment as too harsh a penalty and contrary to EPA's pollution abatement mission. Regional Administrators have seriously considered annulment or termination to keep projects moving, but they have annulled or terminated few grants.

Section 30.1004 of EPA's general regulation for assistance programs permits the Director of the Grants Administration Division to approve deviations from nonstatutory requirements of EPA regulations for a class of projects with the concurrence of the Assistant Administrator for Administration and the Assistant Administrator for the affected program.

Because of the large number of projects involved and the time that would be required to prepare a deviation for each project, we concluded that a class deviation is justified and necessary in this case.

Dated: March 30, 1984.

Howard M. Messner,

Assistant Administrator for Administration and Resources Management (PM-208).

Dated: March 14, 1984.

Jack E. Ravan,

Assistant Administrator for Water (WH-556).

Office of Administration

March 30, 1984.

Memorandum

Subject: Class Deviation from 40 CFR 35.935-9

From: Harvey G. Pippen, Jr. Director, Grants Administration Division (PM-216)

To: Regional Administrators, Regions I-X

The Environmental Protection Agency's (EPA) Construction Grants for Wastewater Treatment Works program (40 CFR Part 35, Subparts E and I) provides financial assistance for municipalities to build wastewater treatment facilities. Grantees who receive a grant but, for one reason or another, do not promptly proceed with

construction have been a constant program concern. Several audit reports on specific projects highlighted, and a September 30, 1983, EPA Inspector General's report surveyed, many projects where EPA Regional Offices did not properly apply regulations to delayed projects.

Background

40 CFR 35.935-9 of EPA's construction grant regulation requires Regional Administrators to annul or terminate those projects on which grantees do not initiate construction within 12 months of approval of plans and specifications under a Step 2+3 grant or within 12 months of award of a Step 3 grant. The same section permits Regional Administrators to approve a six-month extension when justified by the grantee in writing. EPA established these deadlines as a means to deal with grantees that did not proceed with construction in a timely manner.

Recent EPA audit reports questioned costs of several projects which were neither annulled nor terminated but on which construction was initiated after the regulatory deadlines. As a result, EPA's Office of Water Program Operations reviewed the records on all construction grant projects. It determined that grantees began construction on as many as 600 projects more than 18 months after grant award, the maximum time permitted by section 35.935-9.

Subpart J of EPA's general regulation for assistance programs (40 CFR Part 30) provides a process whereby EPA officials and grantees can request deviations from nonstatutory provisions of EPA's grant related regulations. However, Regions requested deviations for only about 200 of the 600 violators of section 35.935-9. Regional Administrators generally did not annul or terminate projects if they knew the grantees were diligently attempting to initiate construction. The most common causes of project construction delays were—

- *Changed conditions*, such as anticipated major dischargers dropping out of the project, slower than expected growth, new technology developments, or revisions in standards of the receiving waters;
- *Local funding shortages* caused by delays in promised funding from other sources, excessive bids, or municipal bond problems;
- *Intermunicipal agreement problems*;
- *Site acquisition problems*; and
- *Public opposition* to projects because of high proposed user fees.

Regional Administrators believed that these problems justified most delays and viewed termination or annulment as too harsh a penalty and contrary to EPA's pollution abatement mission.

Construction delays appear to tie up Federal funds that could be used for other projects and to reduce, because of inflation, the purchasing power of the funds. These two problems were mitigated, however, because States generally received more funds than there were projects on the priority list ready to proceed. Unobligated balances at the end of fiscal years 1973 through 1980 were—

Fiscal year	Amount (billions of dollars)
1973	3.4
1974	7.3
1975	11.4
1976	6.5
1977	1.4
1978	3.6
1979	3.9
1980	2.9

This data indicates that, if the funds were not obligated to projects in question, they would have remained unobligated and held by the Regions, and the effects of inflation would have been the same. Although Regional Administrators often threatened annulment or termination to keep projects moving, they annulled or terminated few grants. Although the Office of Water Program Operations tracked projects on which construction was delayed it did not require Regional Administrators to annul or terminate grants.

Action

It would be unreasonable to annul or terminate projects that are now under construction, but which violated section 35.935-9 because Regional Administrators failed to take action when the violations occurred. Section 30.1004 of EPA's general regulation for assistance programs permits the Director of the Grants Administration Division to approve deviations affecting a class of grantees, provided both the Assistant Administrator for Administration and the Assistant Administrator of the affected program concur.

In his October 12, 1983, report, the EPA Inspector General surveyed all delayed projects. The Inspector General concluded that grantee delays in initiating construction significantly reduced the funds available for construction of wastewater treatment projects. The report recommends that I approve a class deviation to waive only the requirement that Regional Administrators annul or terminate grants on projects which violated section 35.935-9. The recommendation states that the deviation should make it clear that:

- The deviation does not release grantees from their responsibility to effectively and efficiently manage the projects.
- The deviation does not make allowable any unnecessary or unreasonable costs that are due to delay in initiating construction. A cost of delay is unnecessary or unreasonable if the cause of the delay should have been within the grantee's control and the cost was incurred because of grantee mismanagement.
- Regional Administrators must review each of the projects subject to this deviation to determine whether the delay was due to grantee mismanagement and, if so, whether the delay caused increased costs. In cases where grantee mismanagement may have resulted in increased costs, Regional Administrators must notify the Inspector General who will consider that factor in planning final audits.

Because of the large number of projects involved and the time that would be required to prepare deviations on each project, I have

concluded that a class deviation subject to the Inspector General's conditions is justified and necessary.

Class Deviation From 40 CFR 35.935-9

I am approving a deviation from 40 CFR 35.935-9 for all projects which were subject to the provisions of § 35.935-9 and which began construction before April 1, 1984, but began construction more than 12 months (or 18 months, if a six month extension was approved by the Regional Administrator) after Step 3 grant award or approval of plans and specifications on a Step 2+3 project.

This deviation waives the requirement that the Regional Administrators annul or terminate those projects which violated section 35.935-9. Regional Administrators (or delegated States), however, shall review each project subject to this deviation to determine whether any part of the delay was due to grantee mismanagement and disallow any cost increases attributable to unjustified delays. If adequate information is not available to make a determination on a project, that fact should be specifically noted for audit screening by the Office of the Inspector General.

Projects Not Under Construction Before April 1, 1984

Regional Administrators must submit separate deviation requests for all projects which begin construction after April 1, 1984, and which began construction more than 12 (or 18) months late, if the project is subject to section 35.935-9.

Dated: March 30, 1984.

Concur:

Howard M. Messner,

Assistant Administrator for Administration and Resources Management (PM-208).

Dated: March 20, 1984.

Concur:

Jack E. Ravan,

Assistant Administrator for Water (WH-556).

[FR Doc. 84-6514 Filed 4-10-84; 8:45 am]

BILLING CODE 5560-50-M

40 CFR Part 180

[OPP-300083A; PH-FRL 2560-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities: Methyl Poly(Oxyethylene) Alkyl Ammonium Chloride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts methyl poly(oxyethylene) alkyl ammonium chloride, where the poly(oxyethylene) content is 3-15 moles and the alkyl group (C₆-C₁₈) is derived from coconut, cottonseed, soya, or tallow acids, from the requirement of a tolerance when used as a surfactant in pesticide formulations. This regulation was requested by the Armark Co.

EFFECTIVE DATE: Effective on April 11, 1984.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 718, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of December 14, 1983 (78 FR 55584), which announced that the Armark Co., 8401 West 47th St., McCook, IL 60625, had requested that 40 CFR 180.1001(d) be amended by establishing an exemption from the requirement of a tolerance for methyl poly(oxyethylene) alkyl ammonium chloride, where the poly(oxyethylene) content is 3-15 moles and the alkyl group (C₆-C₁₈) is derived from coconut, cottonseed, soya, or tallow acids, be exempted from the requirement of a tolerance when used as a surfactant in pesticide formulations.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 28, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient methyl poly(oxyethylene) alkyl ammonium chloride, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(d) ***

Inert ingredients	Limits	Uses
Methyl poly(oxyethylene) ammonium chloride, where the poly(oxyethylene) content is 3-15 moles and the alkyl group (C ₆ -C ₁₈) is derived from coconut, cottonseed, soya, or tallow acids.		Surfactant.

[FR Doc. 84-6386 Filed 4-10-84; 8:45 am]

BILLING CODE 5550-50-M

40 CFR Part 180

[OPP-300084A, 300085A; PH-FRL 2560-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Certain Pesticide Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These rules exempt synthetic paraffin and its succinic derivatives and ethoxylated and propoxylated isodecyl alcohol from the requirement of a tolerance when used in pesticide formulations. These regulations were requested by the Petrolite Corporation and by Sandoz Colors and Chemicals, respectively.

EFFECTIVE DATE: Effective on April 11, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: At the request of the below named companies, EPA issued proposed rules published in the Federal Register, proposing to amend 40 CFR 180.1001 by establishing exemptions from the requirement of a tolerance for the following pesticide chemicals.

A. Synthetic Paraffin and its Succinic Derivatives

1. *Background.* The proposed rule requested by Petrolite Corp., of Tulsa, OK 74112, published in the Federal Register of February 8, 1984 (49 FR 4801), proposed establishing an exemption from the requirement of a tolerance for synthetic paraffin and its succinic derivatives as a carrier, binder, and coating agent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

2. *Basis for approval.* Synthetic paraffin and its succinic derivatives are cleared under 21 CFR 172.275 as direct food additives for use in fruit coating.

B. Ethoxylated and Propoxylated Isodecyl Alcohol

1. *Background.* The proposed rule requested by Sandoz Colors and Chemicals, Fair Lawn, NJ 07410, published in the Federal Register of February 15, 1984 (49 FR 5774), proposed expanding the existing exemption for *alpha*-Alkyl(C₈-C₁₄) *omega*-hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 7-9 moles; average molecular weight approximately 635, as a surfactant in pesticide formulations by expanding the polyoxyethylene content from 7-9 moles to 4-12 moles. A separate entry in 40 CFR 180.1001(c) is not necessary in order to reflect this change.

2. *Bases for approval.* (1) The subject surfactant is a representative of a group of surfactants cleared in 40 CFR 180.1001(c) under the general heading *alpha*-alkyl (C₈-C₁₄)*omega*-

hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 7-9 moles; average molecular weight approximately 635. The present clearance can be amended to reflect this small increase in the moles of polyoxyethylene. (b) The Agency does not consider this modest increase in the polyoxyethylene content to be of toxicological significance. Accordingly, the present entry to 40 CFR 180.1001(c) is amended to reflect a change in polyoxyethylene content from 7-9 moles to 4-12 moles.

There were no comments nor requests for referral to the advisory committee received in response to the proposed rules.

Based on the above information, and review of their uses, it has been found that, when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment. It is concluded that the proposed amendments to 40 CFR Part 180 will protect the public health, and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 28, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(c) is amended by revising the listing for *alpha*-Alkyl (C₈-C₁₄)*omega*-hydroxypoly(oxypropylene) block copolymer and adding and alphabetically inserting synthetic paraffin and its succinic derivatives to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(c) * * *

Inert ingredients	Limits	Uses
Alpha-alkyl (C ₈ -C ₁₄) <i>omega</i> -hydroxypoly(oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 4-12 moles; average molecular weight is approximately 635.		Surfactants, related adjuvants of surfactants.
Synthetic paraffin and its succinic derivatives conforming to 21 CFR 172.275.		Carrier, binder, and coating agent.

[FR Doc. 84-8367 Filed 4-10-84; 8:45 am]

BILLING CODE 6580-50-M

40 CFR Part 271

[SW-1-FRC 2564-1]

Hazardous Waste Management Program; Rhode Island; Extension of Application Deadline for Final Authorization

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of deadline.

SUMMARY: On March 19, 1984, Rhode Island requested an extension beyond the May 1, 1984 deadline for submittal of a complete final authorization application under the Resource Conservation and Recovery Act of 1976 as amended.

In response to EPA's review of the Draft Application for Final Authorization submitted on December 1, 1983, Rhode Island must adopt several regulatory changes which demonstrate equivalency and consistency with all components of the federal program. EPA is granting an extension to July 1, 1984 for submission of a complete Final Authorization Application and an extension to January 26, 1985 for automatic expiration of interim authorization pending an EPA final decision on Final Authorization.

EFFECTIVE DATE: April 30, 1984.

FOR FURTHER INFORMATION CONTACT: Dennis A. Huebner, Chief, State Waste Programs Branch, Environmental Protection Agency, JFK Federal Building, Room 1903, Boston, Massachusetts, 02203. Telephone (617)223-6883.

SUPPLEMENTARY INFORMATION:

Background

40 CFR 271.122(c)(4) (formerly § 123.122(c)(4); 47 FR 32377, July 26, 1982) requires that States which have received any but not all Phases/Components of interim authorization amend their original submissions by July 26, 1983, to include all Components of Phase II. 40 CFR 271.137(a) (formerly § 123.122(c)(4); 47 FR 32378, July 26, 1982) further provides that on July 26, 1983, interim authorizations terminate except where the State has submitted by that date an application for all Phases/Components of interim authorization. Where the authorization (approval) of the State program terminates, EPA is to administer and enforce the Federal program in those States. However, the Regional Administrator may, for good cause, extend the July 26, 1983 deadline for submission of the authorization application and the deadline for expiration of the approval of the State program. Such extensions on the part of the Regional Administrator are limited to those instances where the State is applying for the remainder of interim authorization or is applying for final authorization. The State of Rhode Island has initiated efforts to receive Phase II A, interim authorization and final authorization.

Rhode Island received Phase I interim authorization on May 29, 1981. On April 22, 1983, Rhode Island submitted a draft application for Phase II, Component A interim authorization. The State was aware that there were several legislative and regulatory changes that were necessary for it to receive final authorization.

On December 1, 1983, EPA received a draft final authorization application from Rhode Island. The draft final authorization application must contain the necessary draft legislation and regulations to allow the State to regulate incinerators and land disposal facilities in a manner equivalent and consistent with RCRA, and regulations necessary to establish a hazardous waste universe equivalent to and consistent with RCRA. A review of the draft application identified some regulatory changes necessary to achieve equivalency and consistency with the federal hazardous waste management program. The State administrative procedures for making the regulatory changes required by EPA and fully adopting the regulations would not allow the state to submit an official application by the May 1, 1984 deadline. To allow approval of the Rhode Island program to expire and have administration of the hazardous waste management program in Rhode Island

revert to EPA for the short period necessary for Rhode Island to adopt regulations would not serve the environment, the public or the regulated community.

Decision

Considering the above factors, reversion of Phase I due to failure to meet the previous deadline is not in the best interest of the State, this Agency, the regulated community, or the citizens of Rhode Island, I find there is good cause to grant the State's request for an extension beyond the May 1, 1984 deadline previously granted for applying for final authorization. Therefore, Rhode Island must submit a complete application for final authorization on or before July 1, 1984. If Rhode Island fails to achieve final authorization by the January 26, 1985 statutory deadline, interim authorization automatically expires and EPA shall administer the Federal program in Rhode Island.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. § 605(b), I hereby certify that this extension will not have a significant economic impact on a substantial number of small entities. The extension effectively suspends the applicability of certain Federal regulations in favor of the Rhode Island program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended. 42 U.S.C. 6912(a), 6926 and 6974(B).

Dated: March 30, 1984.

Michael R. Deland,
Regional Administrator.

[FR Doc. 84-9721 Filed 4-10-84; 8:45 am]

BILLING CODE 8560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-596; RM-4411]

TV Broadcast Station Tice, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 49 to Tice, Florida, in response to a request from Saul Dresner. The assignment could provide Tice with its first local commercial television service.

EFFECTIVE DATE: June 11, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

List of Subject in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Tice, Florida), MM Docket No. 83-596, RM-4411.

Adopted: March 26, 1984.

Released: April 4, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 29918, published June 29, 1983, issued in response to a request filed by Saul Dresner ("petitioner"), proposing the assignment of UHF television Channel 49 to Tice, Florida, as that community's first commercial television allocation. Petitioner filed comments in support of the *Notice* and restated his intention to apply for the channel, if assigned. Ercona South, Inc. filed supporting comments and stated its intention to file for the channel, if assigned. No oppositions to the proposal were received.

2. Tice (population 6,645)¹ in Lee County (population 205,266) is located

¹ Population figure is taken from the 1980 U.S. Census.

on the southwest coast of Florida. It has no local television service.

3. In view of the fact that Tice could receive its first local television broadcast service, we believe that the public interest would be served by assigning UHF television Channel 49 to that community. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.610 of the Commission's Rules.

§ 73.606 [Amended]

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective June 11, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended for the community listed below as follows:

City	Channel No.
Tice, Florida.....	49

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-9649 Filed 4-10-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order makes corrections, additions and updating revisions of the Alphabetical Indices to Parts 73 and 74 of the FCC's Rules. This action is necessary to update these indices.

DATE: Effective April 4, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Mass Media Bureau, (202) 632-5414.

List of Subjects In 47 CFR Parts 73 and 74

Radio and TV Broadcasting.

Order

In the Matter of Oversight of the Radio and TV Broadcast Rules.

Adopted: March 29, 1984.

Released: April 4, 1984.

By the Chief, Mass Media Bureau.

1. In this Order, the Commission corrects, updates and adds listings to the Alphabetical Indices to Parts 73 and 74 of its rules. 47 C.F.R. Parts 73 and 74.

2. Our experience in alphabetically indexing the broadcast rules in Parts 73 and 74 clearly indicates that this makes possible the location of regulations quickly and easily. This fast access has brought about a better understanding of our rules by broadcasters and practitioners due to their ready availability. We also perceive that providing easy access to the rules has reduced considerably the number of letters and phone calls to the FCC requesting help in rule location, thereby minimizing paperwork and administrative workload on the FCC staff, broadcasters and their legal and engineering advisors.

3. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions to Parts 73 and 74 will serve the public interest.

4. These amendments are implemented by authority designated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedures and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

5. Since general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

6. Therefore, it is ordered, That pursuant to Sections 4(i), 303(r) and 5(d)(1) of the Communications Act of 1934, as amended, and § 0.61 and 0.283 of the Commission's Rules, Parts 73 and 74 of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective April 4, 1984.

7. For further information on this Order, contact Steve Crane, Mass Media Bureau, (202) 632-5414.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix A

The alphabetical index appearing at the beginning of Part 73 is revised and updated to read as follows:

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Low Power Auxiliaries	74.867
ITFS	74.965
FM Translators/Boosters	74.1265
Licenses, station, Temporary extension (All Services)	74.16
Licensing requirements:	
Exper. TV	74.131
Exper. Facsimile	74.231
Developmental	74.331
Remote Pickup	74.432
Aural STL/Relays	74.532
TV Auxiliaries	74.632
LPTV/TV Translators	74.732

Remote Pickup	74.451
TV Auxiliaries	74.655
Low Power Auxiliaries	74.851
ITFS	74.952
FM Translators/Boosters	74.1250
U	
UHF translator signal boosters (LPTV/TV Translators)	74.733
Unattended operation:	
Aural STL/Relays	74.531
TV Auxiliaries	74.635
LPTV/TV Translators	74.734
ITFS	74.934
FM Translators/Boosters	74.1234
Use of common antenna structure (All services)	74.22
V-W-X-Y-Z	

[FR Doc. 84-9646 Filed 4-10-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Part 172 and 173**

[Docket No. HM-166-O; Amdt. No. 172-91, 173-174]

Deletion of Certain Commodity Entries

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule; petitions for reconsideration and corrections.

SUMMARY: The purpose of this document is to respond to eleven petitions for reconsideration of the final rule issued under this Docket. Ten of these petitions are granted, in part, by restoring the proper shipping name "Resin solution", Flammable liquid. That entry was removed without prior notice as required by the Administrative Procedure Act. Another petition, which sought to stay the effective date of the final rule until such time as the proper shipping names are removed from corresponding international regulations, is denied. In addition, two editorial errors which appeared in the final rule are corrected.

EFFECTIVE DATE: These amendments are effective September 30, 1984, however, compliance with the regulations as hereby amended is authorized as of April 6, 1984.

FOR FURTHER INFORMATION CONTACT: Irving R. Abis, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 400 7th Street SW., Washington, D.C. 20590. (202) 472-2726.

SUPPLEMENTARY INFORMATION: On November 17, 1983, MTB published a

final rule in Docket HM-166-O (48 FR 52306) which removed certain entries (proper shipping names) from the Hazardous Materials Table (HMT) § 172.101, effective September 30, 1984. The MTB received eleven petitions for reconsideration of that rule. The following is a summary of the petitions.

One petitioner complained that removing entries from the HMT results in inconsistencies between the two tables found in §§ 172.101 and 172.102. MTB wrote to this petitioner asking for further clarification of that complaint. In response, the petitioner modified the petition by urging MTB to make the rule effective only after international bodies delete the same entries from their list of shipping names. The petitioner contends that requiring different proper shipping names for domestic and international shipments leads to confusion on the part of shippers.

MTB does not agree that the effective date of the final rule should be postponed until international bodies have deleted the same entries from their lists. MTB has submitted a paper to the United Nations Committee of Experts on the Transport of Dangerous Goods recommending that the entries removed from the HMT be removed from the list in Chapter 2 of its Recommendations. Indeed many of those names appear on the international lists only because the international bodies drew heavily on the HMT in their initial choice of descriptions.

Several of the materials removed from the HMT do not satisfy the definition of any specific DOT hazard class. They were regulated in a class (ORM-C) that is not recognized by international bodies. That situation can cause greater confusion for shippers, both domestically and internationally, than inconsistency between the two tables.

The other ten petitioners objected to the deletion of the proper shipping name "Resin solution", Flammable liquid. In the preamble to the final rule, it was stated that the entry "Resin solution", Flammable liquid was inadvertently left out of the notice and that proper shipping name also was being removed. Although MTB still believes that the proper shipping name is vague, the entry is restored to the HMT because of the procedural error that did not give an opportunity for public comment on its removal. Several of these petitioners objected also to the removal of the entry "Resin solution", Combustible liquid. This entry was in the notice of proposed rulemaking, Notice No. 82-4 (47 FR 25157) and public comment was received and addressed in the preamble

to the final rule. The petitioners did not furnish adequate justification to support a change in that amendment.

The entry "Road asphalt" was not removed in the final rule but was inadvertently removed from § 173.131. This document corrects that error by adding "Road asphalt" in the heading and text of § 173.131. Also, the entry "Paper scrap" was removed from the HMT but the corresponding section in Part 173 was not removed. That oversight is corrected in this document by removing § 173.1075.

The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.*).

Based on limited information available concerning size and nature of entities likely to be affected by this amendment, I certify that this amendment will not have a significant economic impact on a substantial number of small entities because the overall economic impact of this amendment will be minimal. A regulatory evaluation and environmental assessment of the final rule are available for review in the docket. The economic impact of this document has been found to be so minimal that further evaluation is unnecessary.

List of Subjects**49 CFR Part 172**

Hazardous materials transportation, Labeling Packaging and containers

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, 49 CFR Parts 172 and 173 are amended as follows:

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. In § 172.101, the Hazardous Materials Table is amended by adding the following entry:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

HAZARDOUS MATERIALS TABLE

+ EAW	Hazardous Materials description and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quantity in one package		Water shipments		
					Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other requirements
(1)	(2) * * * (ADD) * * *	(3)	(3)(a)	(4)	(5)(a)	(5)(b)	(6)(a)	(6)(b)	(7)(a)	(7)(b)	(7)(c)
	Resin solution (resin compound, liquid).	Flammable liquid.....	UN 1866.....	Flammable liquid.....	173.118	173.119	1 quart.....	55 gallons.....	1, 2	1	

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.131, the heading and the introductory text of paragraph (a) are revised to read as follows:

§ 173.131 Road asphalt, or tar, liquid.

(a) Road asphalt, or tar, liquid, must be packed in specification containers as follows:

* * * * *

§ 173.1075 [Removed and reserved]

3. Section 173.1075 is removed and reserved.

(49 U.S.C. 1803, 1804, 1808; (49 CFR 1.53, Appendix A to Part 1).)

Issued in Washington, D.C. on April 4, 1984.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 84-9766 Filed 4-10-84; 8:45 am]

BILLING CODE 4910-80-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Guam Rail

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: The Service determines endangered status for the Guam rail, a flightless bird found only in the Territory of Guam. This species has declined drastically in numbers and distribution. An emergency situation exists, because one of the last substantial groups occurs in an area in which land clearing operations are about to be started by the U.S. Air Force. This rule immediately implements the protection of the Endangered Species Act of 1973, as amended, for the Guam rail.

DATES: This emergency rule is effective on April 11, 1984, and expires on December 7, 1984.

ADDRESS: The complete file for this rule is available for inspection during normal business hours, by appointment, at the Service's Office of Environmental Services, 300 Ala Moana Boulevard, Room 6307, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232, (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

The Guam rail (*Rallus owstoni*) was described by Rothschild in 1895. It is a flightless bird with relatively long legs and small wings. The upper parts are largely dark in color, the throat and upper breast are near gray, and the lower parts are blackish with white barring. The species is known only from the Territory of Guam in the Western Pacific Ocean. It formerly occurred in grassy areas, forests, and marshlands throughout the island. A drastic numerical and distributional decline began about 1971. The precise cause is not yet known, but a 1983 census indicated that fewer than 100 individuals survive.

A petition sent to the Service on August 28, 1976, by the Honorable Ricardo J. Bordallo, Governor of Guam, requested that the Guam rail, among other animals, be added to the U.S. List of Endangered and Threatened Wildlife. Another petition, sent to the Service on November 24, 1980, by the International Council for Bird Preservation, also requested the listing of the Guam rail, among other birds.

In the Federal Register of May 18, 1979 (44 FR 29128-29130), the Service issued a notice of review of status for the animals that were the subjects of the petition from the Governor of Guam. In the Federal Register of May 12, 1981 (46 FR 26464-26469), the Service published a notice accepting the petition from the

International Council for Bird Preservation, and announcing a status review of the subject birds. In the Federal Register of December 30, 1982 (47 FR 58454-58460), the Guam rail was included in category 1 of the Service's Review of Vertebrate Wildlife, meaning that there was then thought to be substantial information on hand to support the biological appropriateness of a listing proposal. In the Federal Register of November 29, 1983 (48 FR 53729-53733), the Service published a proposed rule to determine endangered status for the Guam rail. In the Federal Register of January 20, 1984 (49 FR 2485-2488), as corrected on February 16, 1984 (49 FR 5977), the Service published the finding that the listing of the Guam rail and certain other species covered by the petition from the International Council for Bird Preservation was warranted but precluded by other listing activity. The seeming discrepancy between this publication and the earlier proposal to list some of these same birds is explained by the fact that the actual finding had been made by the Service on October 13, 1983, but publication was delayed until January 20, 1984.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Guam rail should be classified as endangered. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 Amendments—see proposal at 48 FR 36062, August 8, 1983) were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Guam rail are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. The Guam rail

once occurred throughout Guam in grassland, forest, and marsh habitats. Since about 1971, surveys show that there has been a precipitous drop in range and numbers. A 1983 survey indicated that fewer than 100 individuals survive, and that these are distributed in several small, discontinuous groups in extreme northern Guam. The reduction probably has resulted in part from destruction of native habitat by human activity. Nonetheless, the overall rapid decline in recent years appears to have involved some factor in addition to habitat loss.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Overutilization by people is not thought to have been a major factor in the decline of the Guam rail, but the species was hunted legally as a game bird until 1973.

C. Disease or predation. The spread of avian diseases is currently a prime suspect as a main factor in the recent decline of the Guam rail, as well as certain other species on the island. To date, no particular disease has been identified, but relevant investigations are now being made by the Guam Aquatic and Wildlife Resources Division, funded through the Federal Pittman-Robertson Program and Section 6 of the Endangered Species Act. There are some similarities in pattern between the disappearance of birds on Guam and in other areas where disease is thought to have been a major problem. An introduced tropical mosquito (*Culex quinquefasciatus*), now common on Guam, was implicated in the disappearance of many of Hawaii's native birds, by acting as a vector for the spread of avian malaria and other diseases.

Predation by introduced animals is also suspected as a major contributing cause of the observed declines. The brown tree snake, sometimes known as the Philippine rat snake (*Boiga irregularis*), is now widespread on Guam. A specimen was collected with a nearly full grown Guam rail in its stomach. The introduced monitor lizard (*Varanus indicus*) is also common on the island and is a potential predator of birds. Cats, rats, dogs, and hogs, all brought to Guam through human agency, also may threaten the flightless Guam rail.

D. The inadequacy of existing regulatory mechanisms. The Guam rail was classified as endangered by the Territory of Guam on September 24, 1981, and is thus protected by the Endangered Species Act of Guam (Pub. L. 15-36). This protection, however, does not require Federal agencies to insure that their actions are not likely to

jeopardize the species, does not affect interstate commerce, and does not provide a basis for the substantial financial and technical assistance that will probably be necessary for a successful conservation program.

E. Other natural or manmade factors affecting its continued existence. DDT and other chlorinated hydrocarbons were employed extensively on Guam during World War II, and there has since been widespread use of agricultural insecticides. Preliminary results of a 1981 study indicate that pesticides are not now a problem, though they may have impacted birds in the past. An additional cause of mortality to the flightless Guam rail is being struck by motor vehicles on roads.

The decision to determine endangered status for the Guam rail was based on an assessment of the best available scientific information and of past, present, and probable future threats to the species. A determination of critical habitat is not considered prudent. A decision to take no action would exclude the Guam rail from needed protection pursuant to the Endangered Species Act. A decision to determine only threatened status would not adequately express the drastic numerical and distributional decline of the species and the continued jeopardy of the remaining population. Therefore, no action or listing as threatened would be contrary to the intent of the Act.

Reasons for Emergency Determination

As stated above, the Guam rail has declined drastically in range and numbers, and now fewer than 100 individuals are thought to survive. These birds are distributed in several small, discontinuous groups at the northern end of Guam, in the vicinity of Andersen Air Force Base. Air Force authorities are about to begin land clearing operations in an area occupied by one of these groups. Such activity might drive the birds into less favorable areas and destroy the vegetative cover on which they depend. Continuation of such habitat destruction would probably result in the swift extinction of the species. Therefore, an emergency situation exists, and immediate implementation of the protective provisions of the Endangered Species Act is considered necessary. Such implementation could result in measures to save the species (see "Available Conservation Measures," below).

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that "critical habitat" be designated, "to the maximum extent prudent and

determinable," concurrent with the determination that a species is endangered or threatened. Section 4(b)(6)(C) further indicates that a concurrent critical habitat determination is not required if the Service finds that a prompt determination of endangered or threatened status is essential to the conservation of the involved species. In the case of the Guam rail, the Service finds that a determination of critical habitat is not prudent. Such a determination would result in no known benefit to the species and would delay completion of this rule. A prompt determination of endangered status is essential to the conservation of the Guam rail. As explained above, this species is on the verge of extinction and an emergency situation exists. The immediate implementation of the provisions of the Endangered Species Act is considered necessary, so that protection can be established and conservation measures initiated. Therefore, a concurrent critical habitat determination is not required.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened pursuant to the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for land acquisition and cooperation with States, and requires recovery actions. Such actions are initiated by the Service following listing. The protection required by Federal agencies, and taking and harm prohibitions, are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal in Federal Register of June 29, 1983, 48 FR 29989). Section 7 requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service. In the case of the Guam rail, as explained above under "Reasons for

Emergency Determination," land clearing operations by the U.S. Air Force may be jeopardizing the existence of the species.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale any Guam rail in interstate or foreign commerce. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been illegally taken. Certain exceptions apply to agents of the Service and the Guam Aquatic and Wildlife Resources Division.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing such permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes or to enhance the propagation or survival of

the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

The Service will now review the Guam rail to determine whether it should be considered for placement on the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora or for other appropriate international agreements.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1983 (48 FR 49244).

Author

The primary author of this rule is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service,

Washington, D.C. 20240, (703/235-1975 or FTS 235-1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, until December 7, 1984, Part 17, Subchapter B of Chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 83-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Section 17.11(h) is amended by adding the following, in alphabetical order, to the List of Endangered and Threatened Wildlife under "BIRDS:"

§ 17.11 Endangered and threatened wildlife.

(h) * * *

SPECIES		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
BIRDS:							
Rail, Guam.....	<i>Rallus owstoni</i>	Western Pacific Ocean: U.S.A. (Guam).....	do.....	E.....	146	NA.....	NA.....

Dated: April 9, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-9808 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-07-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 30873-4017]

Foreign Fishing

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: NOAA issues an interim rule to amend the foreign fishing regulations. This action implements NOAA's authority under 204(b) of the Magnuson Fishery Conservation and Management Act. Under the rule, the Secretary may require payments of financial

assurances before foreign fishing permits are issued and may make foreign fishing permits effective for periods less than the balance of the calendar year. NOAA requests comments on the guidelines under which financial assurances would be required. This rule would allow NOAA to use the permit process to further conservation and management objectives.

DATES EFFECTIVE: May 11, 1984.

Comments on § 611.22(c) must be received on or before May 29, 1984.

FOR FURTHER INFORMATION CONTACT: John D. Kelly, 202-634-7432.

SUPPLEMENTARY INFORMATION:

Background

NOAA published the foreign fishing fee schedule for 1984 in two segments. The proposed rulemaking (NPR) for the first segment was published at 48 FR

41786 on September 19, 1983. It stated that the Secretary may require certain financial assurances from foreign applicants prior to issuing permits and may limit the period of time that permits are effective. The NPR also proposed 1984 permit fees, waived a surcharge, and addressed technical matters. Public comments were invited on the proposed rule for 30 days ending October 19, 1983. The comment period was extended for an additional 15 days, to November 3, 1983, on October 27, 1983, at 48 FR 49668. On December 30, 1983, NOAA published a final rule effective January 1, 1984, to establish the 1984 permit fees and to waive the surcharge but delay issuing a final rule on payments of financial assurances and conditioning the effective dates of permits. NOAA advised concerned parties that it will continue to exercise its authority under

the Magnuson Act in appropriate circumstances to impose any conditions and restrictions on foreign fishing permits, including financial assurances and conditioned effective dates, necessary and appropriate for conservation and management. Concurrently, NOAA stated it would accept additional comments on guidelines for requiring financial assurances and conditional permits. No additional comments on guidelines have been received.

The final rule of December 30 was restricted to the 1984 foreign fishing permit application fee and the waiver of the surcharge for the Fishing Vessel and Gear Damage Compensation fund to continue foreign fishing into 1984 without disruption. NOAA responded only to comments on these matters at that time, and deferred responses to comments on conditioning permits and financial assurance requirements.

Comments on conditioning permits and financial assurances were received from seven sources: The Japan Fisheries Association (JFA), Senator Ted Stevens, Congressman Don Young, Alaska Joint Venture Fisheries, Inc., Alaska Contact, Inc., and the Coordination Council for North American Affairs (CCNAA). One late comment was received from the United States Tuna Foundation. The following summarizes these comments and NOAA's responses to the comments.

Comment. Two commenters requested NOAA to furnish additional information before proceeding to a final rule on the provisions concerning payments of financial assurances and restrictions on the effective periods of permits. (The comment and basic response are repeated as published at 48 FR 57494 but a supplement is added to the response to take into account this action.)

Response. Additional information on these proposals was provided with the notice of extension of the comment period published on October 27, 1983 (48 FR 49668). Because this action only makes manifest an existing authority in the Magnuson Act and only informs concerned parties of conditions for issuing permits and that permits may be of limited duration, NOAA did not agree to withdraw the proposal. This notice, however, responds to comments on these issues and will serve to further explain the NOAA position.

Comment. Congressman Young, CCNAA, and the U.S. Tuna Foundation contend that the Magnuson Act provides for sufficient enforcement authority to protect U.S. interests and question the need for requiring financial assurances when civil and criminal remedies exist.

Response. NOAA agrees that the Magnuson Act provides enforcement authority to develop measures to ensure compliance by foreign fishing vessels with the Magnuson Act and applicable regulations.

However, there have been situations, and will undoubtedly will be more, in which NOAA's usual compliance measures have not worked satisfactorily. Two instances recently brought the need for financial assurances to a head. These were the unlawful fishing in the FCZ by unpermitted vessels of a foreign country which fled the FCZ, escaping seizure and averting legal process, and the refusal of indicted foreign criminal corporate defendants to appear and defend themselves in a judicial proceeding.

The need for the Secretary of Commerce (Secretary) to protect our marine resources by requiring financial assurances was further underlined by the violation record of vessels of that country, which was so egregious as to give a clear statement that the civil and criminal penalties have not been sufficient deterrent from future violations, and by the fact that enforcement of a Magnuson Act civil or criminal judgement by the court in the foreign country was problematic at best.

NOAA believes that financial assurances given to the United States have provided, and will continue to provide, an incentive for foreign nations to ensure compliance by their vessels with the Magnuson Act where other measures have not.

Comment. CCNAA asked whether requiring financial assurances from a foreign government constituted a unilateral amendment of the existing bilateral agreement between the U.S. and the foreign country.

Response. NOAA believes that the Secretary's requiring financial assurances as a condition of granting a permit application to a foreign country does not constitute an amendment to the existing bilateral agreement. In each governing international fishery agreement (GIFA) a foreign country agrees to take all appropriate measures to assist in the enforcement of the laws of the United States pertaining to fishing and to take all necessary measures to insure that the people and vessels of the country refrain from fishing for living resources over which the United States exercises exclusive fishery management authority except as authorized by permit. NOAA believes that requiring a country to provide financial assurances that its vessel owners will pay civil penalties and appear in proceedings against them are necessary and

appropriate measures that easily fall within the agreement made by the foreign country with the United States.

Comment. Senator Stevens and other commenters asked what would financial assurances cover and what U.S. interests warrant additional protection. He asked what information a foreign nation would need to procure a "bond."

Response. The financial assurances referenced in the proposed rule are intended to encourage greater compliance with the Magnuson Act and the applicable regulations when other deterrents to future violations are not effective. The assurances could be required to ensure that fishing vessel owners or operators of a nation submit to legal process. The assurances would be required to protect the marine fishery resources over which the United States exercises exclusive management authority. On the other hand, such assurances are not intended to provide guarantees to a U.S. party that the specific terms of a private business contract with a foreign company would be satisfied.

Comment. Senator Stevens asked the basis for establishing the financial assurance level and whether standards have been set to assure that all foreign nations are treated equally. The U.S. Tuna Foundation was concerned with application of this requirement by foreign countries to U.S. vessels.

Response. Although there may be other reasons for requiring financial assurances from a foreign country than strictly enforcement reasons, NOAA currently believes assurances should be required only to protect the marine fishery resources. From our experience in the enforcement area we have thus far discerned three situations in which financial assurances may be required from a foreign country: (1) The violation record of a country is so bad as to give a clear statement that the civil and criminal penalties have not been an effective deterrent to further violations; (2) a country's vessel owners have consistently refused to participate in our administrative or judicial proceedings by refusing to answer administrative charges or summons to appear in court; or (3) the possibility of enforcement of Magnuson Act civil or criminal judgments in the courts of a foreign country is remote. These situations represent current guidelines for determining whether assurances should be required, and would govern the levels at which such assurances may be established. These guidelines for determining whether assurances need to be required, together with a guideline which would address specifically the

violation issue of fishing by unpermitted vessels, are herein incorporated in a new § 611.22(c) and assure that all foreign countries are treated equally. NOAA requests comments on these guidelines, and how a reciprocal application of these guidelines would affect U.S. vessels.

Comment. Senator Stevens also asked if there were alternatives if a foreign country is unable to post the "bond".

Response. If a foreign country is unable to provide financial assurances in the form of a bond or letter of credit as the Secretary required, there would be no alternative. The NOAA decision to consider financial assurances, or bonds, in the permit approval process is in itself an alternative to the most severe action of denying permits to vessels of a nation. Under Section 204(b)(6) of the Magnuson Act, the Secretary should deny an application if he determines that the fishing described in the application will not meet the requirements of the Magnuson Act. In deciding to approve an application, the Secretary may take into account other matters with respect to the foreign nation he deems appropriate. In certain instances, it may be in the interest of the United States to permit fishing by vessels of a country in one or more of the situations described in the prior response, if the Secretary is assured that the marine fishery resources are reasonably protected. In these instances, financial assurances provide the alternative to denying the permit application.

The question asked may also relate to whether the "bond" must be posted by the foreign country itself or maybe paid for by another party on behalf of the foreign country's fishing fleet. By virtue of its agreement to cooperate in enforcement matters, a country is responsible for all vessels which may fish with or without permits in U.S. waters, and therefore, would be responsible for making sure that a letter of credit or "bond" was established if required by NOAA. NOAA's principal concern is that the "bond" is established rather than whether the foreign government itself actually raises the money for a "bond" or whether, as payment of fees by some foreign countries, the private parties who benefit from fishing put together the requisite funds.

Comment. Senator Stevens, Congressman Young, and other commenters questioned the economic effects of this rule on U.S. joint venture participants and what considerations have been given to U.S. fishermen or processors who are now in joint ventures.

Response. Foreign joint venture vessels are subject to the permit provisions of Section 204(b) of the Magnuson Act. Permit applications for either direct fishing or joint ventures are approved subject to the flag country's agreement to have its vessels conduct fishing in accordance with provisions of the Magnuson Act, the applicable GIFA, the applicable regulations, and any conditions and restrictions attached to the permit. A business agreement to provide one or a number of vessels to support U.S. harvesting vessels does not diminish the flag country's responsibility for compliance by its vessels with U.S. regulations.

NOAA has considered the potential effect of the rule on the U.S. partners in existing or planned joint ventures and believes that restating in regulations the Secretary's existing authority under the Magnuson Act will clarify NOAA's intent relative to financial assurance requirements. NOAA does not believe it likely that this action will diminish opportunities for joint ventures to any significant extent because few situations exist which would require financial assurances. Moreover, the Secretary has authority to exempt certain vessels from the requirement should he find that U.S. industry would benefit if he did so.

In the only situation to date in which an assurance was required, the U.S. partners continued their joint venture negotiations with full knowledge that there were serious concerns in the Federal Government with the violation record of the country and that the country's vessel owners had not cooperated in judicial proceedings. Thus, it appears that the U.S. company undertook a calculated business risk to continue negotiations with the foreign partner. In 1984, the agency nonetheless relieved that country's joint venture vessels of the requirement to provide assurances in order to avoid any perception of harm to the U.S. industry.

NOAA believes that net opportunities for joint ventures could be increased because this rule provides the alternative of requiring financial assurances in situations which would otherwise result in denial of an application for a joint venture fishing permit. This requirement should not affect the economics of U.S. joint venture fishing operations. There has been a large increase in the number of foreign companies willing to take part in joint ventures, particularly in Alaska and in the Northwest Atlantic Ocean. Vessels of a majority of these companies have fished in compliance with applicable regulations or, if they had not, have satisfied any outstanding penalties. Thus, U.S. fishermen have

choices in forming joint ventures. Moreover, if U.S. fishermen contract with foreign vessels which could be required to provide financial assurances prior to receiving a permit, there is no obligation on the part of U.S. fishermen to assume a financial burden for the behavior of these vessels prior to the date of the contract. Certain responsibilities are generally shared by joint venture partners, but the situations which would require financial assurances typically occur prior to the date of the contract. NOAA does not wish to encourage joint venture contracts for foreign vessels to enter the U.S. fisheries when they might otherwise not be issued fishing permits.

Because NOAA concluded that U.S. fishermen would not assume financial responsibility for the requirement, NOAA did not address the economic effect of this regulation on U.S. fishermen in the draft regulatory impact review (RIR). None of the commenters provided evidence or a clear statement to the effect that such costs are, in fact, shared by U.S. fishermen or, if they are, the extent to which they are shared.

Because of the overriding requirement to manage the Nation's marine fishery resources, NOAA has decided to incorporate this provision into regulations at 50 CFR 611.3(c)(3).

Comment. Several commenters addressed the provision which would allow the Secretary to limit effective dates of foreign fishing permits to periods of less than the calendar year. These commenters were concerned with the basis for restricting permits and how such restrictions could affect joint venture contracts.

Response. The authority to limit the effective periods of foreign fishing permits is derived from section 204 (b)(7)(F) and (b)(12)(C) of the Magnuson Act. Some permits have been limited to provide a reasonable period to monitor vessel performance against either certain enforcement requirements or other requirements related to the initial approval of the vessel's fishing application. For example, a permit may be conditionally issued for a period to a vessel with a poor enforcement record and reissued following that period based upon acceptable vessel compliance with the regulations during the initial period. As another example, 1983 joint venture permits for the Atlantic squid fisheries were issued for 45-day periods during which the performance of these vessels was monitored to ensure that the permitted vessels were providing at-sea markets for U.S. fishermen and other promised benefits which were the basis for approving their permit applications.

On favorable review, permits were extended for a subsequent 45-day period.

This action incorporates the NOAA decision to use such conditional permits to further compliance and development objectives. As such, conditional permits should encourage foreign joint venture partners to commit their vessels to the success of approved joint venture operations, and to provide the promised benefits for the U.S. fishing industry.

Comment. The JFA also recommended a change in the proposed regulatory text of § 611.3(f)(2) to limit the conditions and restrictions to those authorized by Section 204(b)(7) of the Magnuson Act.

Response. The Secretary's responsibility to impose conditions and restrictions is not limited to Section 204(b)(7) of the Magnuson Act. Section 204(b)(12)(C) also requires the Secretary to impose conditions and restrictions in certain circumstances. Paragraph § 611.3(f)(2) is amended to include both sections.

Summary

NOAA therefore refines the proposed rule based on the public comments and states in rule, for the interim, that it may require payments of financial assurances prior to issuing foreign fishing permits, to provide for public comment on the guidelines for requiring such assurances, and to state in regulations NOAA's authority to "time-condition" the effective dates of foreign fishing permits. NOAA provides a 45-day period for comments on the interim rule and actively seeks the comments of the U.S. tuna industry and others on the guidelines for applying the provisions concerned with financial assurances. NOAA does not intend to apply the requirement for payment of financial assurances until the 45-day comment period is completed and these interim regulations are superseded by a final rulemaking.

Classification

The Assistant Administrator has determined that this action is consistent with the Magnuson Act and other applicable laws. NOAA prepared a draft regulatory impact review (RIR) in conjunction with the rule proposed at 48 FR 41786. That RIR discussed the economic consequences and impacts of the fee provision of the regulations. Copies of the RIR are available from the address specified in the proposed rule at 48 FR 41786. No additional quantitative information has been provided to establish that the rule would affect U.S.

joint venture fishermen. Based on the RIR, the Administrator, NOAA, has determined that the regulations do not constitute a major rule under E.O. 12291. The RIR demonstrates that this final rule complies with the requirements of Section 2 of E.O. 12291.

These regulations will not have a significant impact on a substantial number of small domestic entities for purposes of the Regulatory Flexibility Act because the impacts are on foreign entities. There is no quantitative information of adverse effects on U.S. fishermen. The preamble to the proposed rule (47 FR 38947) stated that the General Counsel of the Department of Commerce certified to the Small Business Administration that this action is non-significant under the Regulatory Flexibility Act.

This action does not constitute a major Federal action significantly affecting the quality of the human environment. These amendments are programmatic functions with no potential for environmental impacts under the National Environmental Policy Act.

The final rule has no information collection provisions for purposes of the Paperwork Reduction Act 44, U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Dated: April 6, 1984.

William G. Gordon,

Assistant Administrator for Fisheries,
National Oceanic and Atmospheric
Administration.

PART 611—[AMENDED]

For the reasons set out in the preamble, 50 CFR Part 611 is amended as follows:

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. In § 611.3, revise paragraphs (c)(3), (f) (2), and (3) to read as follows:

§ 611.3 Permits for foreign fishing vessels.

(c) * * *

(3) The payment of the fees required under § 611.22(a) and surcharge fees required under § 611.22(b), and the provision of any assurances required by the Secretary under § 611.22(c);

(f) * * *

(2) Permits are issued by the Assistant Administrator, through the Secretary of State, in Washington, D.C., U.S.A.

Permits are valid when issued, but not earlier than January 1 of the year for which the permit is issued. Permits are valid only for the specific vessel(s) for which they are issued. A permit is effective through December 31 of the year for which it is issued, unless the effective period is restricted by additional conditions and restrictions attached to the permit, as provided for in Section 204 (b)(7) and (b)(12) of the Magnuson Act. Permits are not issued for small boats used for fishing which are launched from large vessels. Each such small boat is an extension of its mothership and any enforcement action or permit sanction which might result from the activities of any such small boat would be taken against the mothership. A permit specifies the permit number for each permitted vessel, any other activities authorized, any additional conditions and restrictions applicable to that permit and the date of issuance of the permit.

(3) A vessel may engage in fishing activities authorized in its permit within the effective period of the permit and only after:

* * *

3. In § 611.22, add a new paragraph (c) to read as follows:

§ 611.22 Fee schedule for foreign fishing permits.

* * *

(c) A foreign nation, or the owners and operators of certain vessels of that foreign nation, may be required by the Secretary to provide financial assurances. Such assurances may be required if—

(1) Civil and criminal penalties assessed against fishing vessels of the nation have not effectively deterred violations;

(2) Vessels of that nation have engaged in fishing in the FCZ without proper authorization to conduct such activities;

(3) The nation's vessel owners have refused to answer administrative charges of summons to appear in court; or

(4) Enforcement of Magnuson Act civil or criminal judgments in the courts of a foreign nation is unattainable.

The level of financial assurances will be guided by the level of penalties assessed and costs to the U.S. government.

[FR Doc. 84-9688 Filed 4-10-84; 8:45 am]

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Proposed Rules

Federal Register

Vol. 49, No. 71

Wednesday, April 11, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 907 and 908

[Docket Nos. AO-245-A8 & AO-250-A6]

Navel and Valencia Oranges Grown in Arizona and Designated Part of California; Recommended Decision and Opportunity To File Written Exceptions to Proposed Further Amendment of Marketing Agreements and Orders 907 and 908, Both as Amended

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written exceptions on proposed amendments of the marketing orders regulating the handling of navel and Valencia oranges grown in Arizona and a designated part of California. The principal amendments would: (1) Modify the provisions of the orders concerning proration of shipments; (2) change provisions concerning committee structure and establish tenure requirements for members; (3) provide for periodic referenda on continuation of the orders and make other administrative and regulatory changes in the programs. The intent of the proposed changes is to improve the effectiveness of these orders. They would also increase the flexibility consistent with USDA guidelines on fruit, vegetable, and specialty crop marketing orders.

DATE: Written exceptions to this recommended decision must be filed by May 21, 1984.

ADDRESS: Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written exceptions should be submitted, and they will be made available for public inspection

during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued March 11, 1983, and published in the March 17, 1983, issue of the Federal Register (48 FR 11276).

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code, and therefore is not subject to the requirements of Executive Order 12291.

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to the proposed further amendment of Marketing Agreement and Order Nos. 907 and 908 regulating the handling of navel and Valencia oranges grown in Arizona and designated parts of California, and of the opportunity to file written exceptions thereto. Copies of this decision may be obtained from William J. Doyle.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the "act", and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900).

The proposed amendments were formulated on the record of a public hearing held in Bakersfield, California, on April 5-22, 1983. The notice of Hearing contained proposals submitted by the Navel and Valencia Orange Administrative Committees, hereinafter referred to as the "committees"; California Citrus Mutual; the Committee to Improve Marketing Orders 907 & 908 (CTIMO); J. Kent Burt, Dennis N. Torigian, and Carl A. Pescosolido, Jr., Don A. Schroeder; Berne H. Evans, III; and the Fruit and Vegetable Division, AMS, USDA.

Material Issues

The material issues of record addressed in this decision are as follows: (1) Eliminate the prorate provisions of the orders; (2) Provide

authority for the committees to preclude the issuance of volume regulation before specified dates and limit the number of regulation weeks; (3) Provide authority for prorate periods of two or more weeks; (4) Specify additional requirements for the marketing policy; (5) Provide for the suspension of volume regulation when a specified portion of the crop has been shipped in each district; (6) Amplify the authority exempting a specific size or sizes of oranges from prorate regulation when conditions warrant; (7) Authorize changes in prorate base computation; (8) Permit undershipments or allotment to be carried forward for two weeks without forfeiture and authorize further changes to be implemented through informal rulemaking; (9) Include shipments to Mexico in a handler's prorate quantity; (10) Provide authority for a generic advertising program; (11) Provide that a marketing incentive program be implemented through informal rulemaking; (12) Revise early maturity allotment provisions; (13) Establish committee tenure requirements; (14) Establish periodic referenda; (15) Revise provisions relative to the establishment and membership of the committees and voting and quorum requirements; (16) Increase the compensation of committee members and alternates; (17) Authorize the committee to levy an interest or late payment charge on past due assessments; (18) Revise reporting requirements and establish recordkeeping requirements; (19) Provide authority to revise exemptions for charitable donations; (20) Provide authority for consumer affairs advisors; (21) Define "carloads"; (22) Revise "weekly report" and "manifest report"; and (23) Making conforming changes.

Background Statement¹

Marketing orders 907 and 908 cover California and Arizona navel and Valencia oranges and have been in continuous existence since 1953. The orders regulate the handling of oranges shipped to the fresh market in the

¹ Official notice is taken of the following:
A. Annual reports of the Navel and Valencia Orange Administrative Committees
B. Acreage reports published by the Navel and Valencia Orange Administrative Committees
C. Production, Utilization and Price reports published by the Statistical Reporting Service, USDA

continental United States and Canada. The major regulatory features of these two programs are the flow-to-market provisions. Oranges which are exported (except to Canada), processed into products, or otherwise disposed of (e.g. charitable donations, roadside sales or parcel post sales) are not regulated under the order. The production area is divided into four districts for navels and three for Valencias.

Order controls apply at the handler level. A prominent objective of the orders is to adjust the short-term supply to meet market conditions which are subject to wide short-term variations. A series of short term regulations can also stabilize shipments over an extended period, i.e. "prorate" supplies over time. The order provides for adapting to changing supply and demand conditions as well as recognizing ongoing differences in production characteristics both within the industry generally and within an individual district.

In recent years, there has been considerable controversy surrounding these programs both from within and without the industry. The amendment hearing included testimony on a wide range of economic considerations surrounding these two programs.

Many industry changes have taken place since the beginning of the marketing orders. However, the reasons for the changes are not easily agreed upon, particularly regarding the impact of the marketing orders on the current level of production and the long-term marketing situation. Basic philosophical differences have arisen out of discussions on proposed changes in the marketing orders; thus, it is necessary and appropriate to examine the factors that have led to this proceeding and to segregate independent issues from those that are marketing order dependent.

A. The Product

Oranges are consumed both fresh and in various forms of processed product. Prior to the early 1950's, most oranges were sold to consumers as fresh fruit. However, processing technologies developed and implemented in the 1950's led to structural change within the total U.S. industry. Consumers no longer had to purchase fresh oranges for juice and were able to buy the finished product. This physical product development led to overall change in consumer preferences and in turn new market development.

Since California-Arizona oranges generally have the characteristics that make them desirable for sale as fresh fruit and Florida oranges are comparatively better suited for processing, the industries developed

differently. The processing industry became predominant in Florida and in the long-term this has meant that Florida has sold fewer oranges in fresh form as the State's fresh oranges have had to compete with a remunerative products market.

California-Arizona navel oranges are a winter orange with harvest beginning in the late fall (October or November) and extending until late spring—about the same harvest span as the Florida and Texas seasons. California-Arizona Valencias are more of a summer orange with the season extending from about February until the following winter. (Navels are not preferred for use as juice even though some may go to processing and subsequently be mixed with other juices before packaging.) California-Arizona Valencias are more suited for processing but are also popular for fresh market because of their appearance, quality and seasonal characteristics.

Shortly after the beginning of the season, a high proportion of each California-Arizona orange crop is mature and could be shipped to market; but markets are insufficient to absorb that quantity of fruit in a short period of time. Fortunately mature oranges are storable on the trees, and, if left unharvested, will continue to be marketable during the normal season. This characteristic allows for the use of the flow-to-market features of the orders.

B. Industry Structure

The producing sector of the California-Arizona orange industry is characterized by a large number of relatively small units. In 1981-82, there were about 4,000 growers of California-Arizona navel oranges and 3,500 growers of California-Arizona Valencia oranges. Many growers produce both varieties. The average orchard size has been increasing and larger-scale business units have accounted for an increasing proportion of the total output. In 1981-82, based on the number of growers and total acreage, the average navel unit was 30 acres versus about 20 acres in the mid-1960's. The average Valencia unit, however, has stayed about the same at approximately 20 acres.

California-Arizona oranges marketed fresh are graded for quality according to industry standards. These differ slightly among handlers, but are basically refinements of California State grades. Oranges used for processing are not necessarily graded but are segregated from fresh oranges at the packinghouse with value determined by criteria other than appearance.

There are approximately 121 handlers of California-Arizona navel oranges and 123 handlers of California-Arizona Valencias. Handlers are responsible for packing and distributing packed fruit, although many are also responsible for harvest scheduling, harvest and raw product assembly activities. Generally, growers enter into various kinds of contracts with packinghouses (handlers) for one or more years. While growers are primarily responsible for producing the fruit, they generally receive the "residual" value that remains after all other marketing charges have been deducted from the selling price.

The majority of handling firms are members of cooperative marketing associations. Handlers (either cooperative members of independents) make many of their own pricing and selling decisions. Over the past thirty years, industry concentration has changed; the predominant marketing organization's market share has declined substantially.

In addition to performing normal handling operations, many handlers also serve as marketing organizations. In other instances the marketing of the fruit is done by an entity other than the handler. Thus, a handler is not necessarily a marketing organization and a marketing organization is not necessarily a handler. It was reported at the hearing that the number of marketing organizations has increased from six or seven in 1953 to 25 or 26 in 1978.

During the earlier years of the order, a higher proportion of sales moved through auction markets. In recent years an increasing share of the sales has been made on a firm price bases (f.o.b. shipping point). The structure of the buying side of the equation in earlier years tended to put growers and/or handlers at a particular disadvantage due to the uncertainty of the sales. On the other hand, the trend to even more concentration on the buyers' side (wholesalers, importers, institutional buyers, and vertically integrated retailers) continues to limit the sellers' bargaining strength. Thus it appears that buyers still have an advantage in trading of a perishable commodity such as oranges. Despite these comparisons, however, the number of participants on both the buying and selling sides is indicative of a highly competitive marketplace.

C. Acreage Trends

Over the time span of the marketing orders there has been a shift in the producing areas due in large part to urbanization but also because of

conversion of desert areas to agriculture. This shift in the producing areas has led to a higher concentration in central California and increases in Arizona and the desert area of California, and away from the previous concentration in southern California. In the case of navel oranges, total acreage (which reflects both planting and removal rates) peaked in the mid-1970's and has trended downward since that time. Valencia acreage peaked earlier (in the late 1960's) and has shown the same downward trend as navels. However, high production levels of recent years may be attributed to improved yields and non-bearing acreage reaching maturity (it takes about five to seven years for a tree to reach bearing age).

The definite "bulge" in plantings that occurred in the 1960's may be attributed to a number of factors, among them tax incentives which prevailed at the time. Another may have been a perceived favorable export outlook. Still another may have been an overall optimistic financial outlook at the time; an expanding products market, appeared to have considerable unfulfilled potential.

Some suggest that the stabilizing effects of the marketing orders also provided planting incentives. To the degree that an order contributes to improved or stabilized prices it logically reduces risks. This could tend to make entry into the industry more attractive during an optimistic period and exit for the industry less attractive during a period of gloomy outlook.

Acreage data indicate that the upward trend in plantings ceased years ago and a gradual industry adjustment has begun to take place. In 1981-82 non-bearing acreage of California-Arizona navels represented less than one percent of the total acreage compared to 18 percent at its peak (1966-67) and about one percent of the total acreage of California-Arizona Valencias compared to 24 percent at the peak (1963-64). Similarly, total navel acreage in 1981-82 was reported at 117,396 acres, down six percent from the peak and Valencia acreage, at 79,510 acres, down one-third from the peak. These data indicate at least in part a more pessimistic long term outlook than existed in the 1960's.

D. Production and Utilization Trends

Due to the increased bearing acreage and improved yields, there has been a strong upward trend in production of both crops. California-Arizona navel crops in 1980-82 and 1982-83 were almost three times the level of the 1940's and 1950's. California-Arizona Valencia crops have shown an upward trend but not to the extent of navels. In addition to

the overall upward trend, navel production increased sharply to record highs in 1979-80, 1980-81, and 1982-83. Prior to that time, domestic usage had been in the range of 26 to 38 thousand cars per year and the new level of production was 68 to 84 thousand cars. Consequently, it was not possible to maintain the utilization pattern that existed prior to the production surge. However, the absolute quantity shipped to domestic fresh markets has increased and reached record levels which are about double the amounts of the 1950's. In 1982-83 there were 49,018 cars of navels shipped to regulated markets, 58 percent of the total utilization compared to 22,101 cars in 1953-54, which was 77 percent of the total utilization.

The domestic (regulated) market is the preferred market for both California-Arizona orange crops. The export market is the second preferred alternative and processing is the least desirable. There has been a substantial effort to develop export markets for U.S. oranges but thus far these efforts have produced only limited results because of externalities such as tariff preferences, foreign quotas, and random border closings. The processing outlet tends to be a residual outlet. In recent years of high production levels a higher proportion of the crop has been utilized in other than the domestic market.

E. Program Implications

Short run demand for fresh oranges tends to be relatively inelastic. Thus, even a small variation in shipments can have a great impact on grower revenue. This is the foundation for the use of the orders—to foster market stability and enhance revenue in the short-run. Econometric models demonstrate conclusively the utilization options which will maximize grower returns on a season by season basis. These models, however, are less precise in measuring effect on long-run grower income. One probable long-run effect of regulation is to slow the rate of adjustment that would occur in the industry absent regulation.

The difference in the results that occur in the short run and long run cannot be precisely measured because of the lack of recent historical non-regulated experience. In the case of California-Arizona navel and Valencia oranges, there is one example. A prior marketing order was terminated in March 1952 and no regulatory authority existed during the entire 1952-53 season. The on-tree value of all sales for the 1952-53 navel crop was substantially below the level of the three preceding seasons. In addition, f.o.b. prices were unstable intraseasonally, ranging from

\$1.65 per box more than the season average to \$0.40 less than the average. In 1951-52 with partial regulation under the marketing order the range was only \$0.38 per box above and below the season average.

The marketing orders for California-Arizona oranges are intended to be a self-help tool for use by industries in solving difficult problems but are not designed to affect all factors associated with successful marketing of these crops such as influences of the other markets (export or processing) and those associated with long-range planning (tax incentives and overall optimistic financial outlook).

(1) The hearing record contains extensive testimony from industry and non-industry witnesses who supported the proposal to amend orders to eliminate the prorate provisions. A number of economists testified in favor of such proposal. They suggested, however, that the industry would undergo a radical and severe economic displacement if prorate were abruptly eliminated. For example, several economists testified that in the short-term (2 to 7 years) there would likely be a period of industry readjustment, resulting in a reduction in producer revenue, an increase in price instability and a reduction of approximately 40,000 to 50,000 acres of California-Arizona orange groves. They suggested that during this same period approximately 3,100 to 7,000 California-Arizona orange growers would likely be forced to abandon orange farming due to radically changed economic conditions. Those most likely to abandon orange farming would include new business entrants who recently purchased land at high cost and interest rates and growers who are highly leveraged (i.e., high debt to equity ratio).

The positive aspects of prorate were attested to by several witnesses who observed that from their perspective this regulatory mechanism guards against extreme fluctuations in supplies and prices, permits more efficient use of labor, equipment, and other marketing facilities, and has generally benefitted the smaller producers in the economic marketing of their oranges. Moreover, without a means of adjusting supply with market requirements, the quantity of oranges available for fresh shipment during a given period (short-term) could greatly exceed market requirements. There could also be instances where insufficient quantities would be available because of crop and market conditions.

A basic declaration of policy in the Agricultural Marketing Agreement Act

of 1937 directs the Secretary of Agriculture to establish and maintain such orderly marketing conditions as will provide, in the interest of producers and consumers, an orderly flow of the supply of a commodity throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices. The allocation of allotment among handlers of navel or Valencia oranges contributes to the orders' objectives of orderly marketing and improving returns to producers by correlating the supply of oranges available for sale in commercial fresh domestic channels with demand in those outlets. Thus, prorate is a valuable tool in achieving the goal of market stabilization for navel and Valencia oranges. Based on the foregoing, it is concluded that prorate provisions tend to effectuate the declared policy of the act and the proposal to eliminate them from the orders is denied. In regard to prorate, however, a number of issues to modify and render more flexible the current procedures are appropriately addressed.

(2) The marketing orders provide that the committees may meet, and recommend to the Secretary, the total quantity of navel or Valencia oranges which they consider advisable to be handled during the succeeding week in each prorate district. Such authority enables either committee to recommend volume regulations to meet market demands and at the same time to reasonably apportion the quantities to be handled among handlers in each prorate district in accordance with the shipping period of such district. In arriving at their recommendations, the committees obtain and consider information with respect to significant factors affecting marketing conditions for oranges. Under the Secretary's discretionary authority, each recommendation of the committee is subject to the continuing right of the Secretary to disapprove of it at any time.

The committees hold public meetings in one of the prorate districts each Tuesday during the navel or Valencia orange season to review the current and prospective demand and supply of navel or Valencia oranges. In its review of the market the committees consider, among other things, the quantity of oranges available for sale, the quantity shipped, f.o.b. prices, and shipments of competitive fruits and other domestic citrus. Based on the review, the committees make appropriate recommendations for volume regulation to the Secretary. Historically, the Secretary has reviewed such

recommendations and, by regulation, fixed the quantity of fresh navel or Valencia oranges that may be handled domestically for the week which began on Friday of the week of the meeting.

It was proposed at the hearing by CTIMO that the orders be amended to limit the onset of prorate to December 25 for navel oranges and the first Monday in May for Valencia oranges. Also included in that proposal to amend §§ 907.57 and 908.57 was the proposal to limit the issuance of volume regulations for navel oranges to six two-week prorate periods each season and for Valencia oranges to three two-week prorate periods each season.

These proposals would establish regulation on the basis of calendar date rather than on marketing conditions and fruit quality. As proposed, the amendment would likely result in harvesting of increased portions of growers' groves prior to the onset of prorate, and this could cause unstable markets during the period prior to the onset of regulation. The excess volume on the market could also carryover to the prorate period resulting in lesser volumes being shipped until excess supply on the market disappears. Testimony in support of this proposal did not adequately demonstrate why the specific dates or number of weeks were chosen and how they would tend to effectuate the declared policy of the act. Further, the specific dates and length of prorate season cited are not likely to be satisfactory for all marketing years. Crop and weather conditions change annually and such changes must be taken into account in recommending regulations. Therefore, these specific proposals are denied.

Yet to allow increased flexibilities, the orders should be amended to provide authority for the committees to recommend limitations on the number of prorate periods and the beginning and ending dates of prorate. Sections 907.51 and 908.51 should be amended to provide specific authority for the committees to recommend to the Secretary and the Secretary, in his discretion, to approve appropriate rules and regulations setting the periods of time during the season that prorate regulations shall be in effect and/or the date that prorate commences. This amendment should allow growers and handlers to respond to marketing conditions and ship on the basis of acceptable fruit quality, supply and demand. However, a specific number of weeks or beginning dates of prorate are not recommended for inclusion in the orders; they would likely prove too rigid.

Briefs were filed by California Citrus Mutual and the committees opposing the CTIMO proposal to modify the prorate provisions of the orders. The briefs both agreed that setting the maximum number of weeks of regulation and the proposed dates of December 25 (navel oranges) and early May (Valencia oranges) for the onset of prorate would result in chaotic marketing conditions and reduced returns to growers. However, as stated, the committees should have the discretionary authority to recommend limits on the use of prorate as current and prospective conditions may warrant.

(3) It was also proposed at the hearing that the orders should be amended to provide for two-week prorate periods. Testimony at the hearing from members of the navel and Valencia orange industries indicated that a prorate period of more than one week might be beneficial. Handlers would have advance information on the amount of allotment available to them and this could permit more effective planning of their marketing operations. This type of prorate could also permit greater intraseasonal flexibilities for individual handlers, while at the same time protecting the viability of the programs.

However, the committees should not be limited to recommending only two-week prorate periods. Such a requirement would not be responsive to changing marketing conditions. There are intraseasonal peaks and valleys in the demand pattern when one, two, three, four-week or longer prorate periods would be appropriate. An unusual situation such as a freeze in the Florida or Texas citrus producing areas could drastically reduce Florida or Texas shipments and quickly increase demand for California oranges. Likewise, adverse weather conditions in a major portion of the country could cause problems in transportation, reducing shippers' ability to move their fruit into certain markets, thereby decreasing shipments to market outlets. For these reasons, nothing should preclude the committees from recommending prorate periods of varying number of weeks to reflect current supply and marketing conditions.

Accordingly, the orders should be amended to authorize the committees to recommend prorate periods of one to multiple weeks in duration. Setting multiple week prorate would require recommending realistic volumes. This would allow handlers the opportunity to develop and maintain effective marketing plans which are likely to be advantageous to both sellers and

buyers. The recommendation of unreasonably low prorate volumes which are then increased (amended) upwards, would tend to mitigate the effectiveness and intent of multiple week prorate. For this reason, the committees should carefully review their initial prorate recommendations to the Secretary and make realistic recommendations to the Secretary, and significantly reduce or eliminate the need for multiple amendments to prorate regulations.

(4) Preliminary review of the marketing season begins when a marketing policy is developed by the Navel Orange Administrative Committee (NOAC) or Valencia Orange Administrative Committee (VOAC) staff for review and action by the full committee at marketing policy meetings. Meetings are held in each of the districts to afford maximum industry participation. The marketing policy provides the basis of recommendations for size and volume regulations for the coming season based upon statistical information from each committee and other sources such as Statistical Reporting Service (SRS), the California Department of Agriculture, and trade publications.

The marketing policy includes information on the projected crop of oranges including the quality and size composition of the crop, estimated utilization of the crop (fresh domestic, export, by-products and otherwise to be disposed of), a schedule of projected weekly shipments, competing supplies of other commodities, supplies of other citrus, level and trend of consumer income, and other information.

The policy contains an anticipated shipping schedule to provide, to the extent possible, a continuous flow of oranges to the fresh domestic market throughout the navel or Valencia orange season. The policy also provides for equity of marketing opportunity, that is, each district subject to the order is permitted to ship a fair quantity of oranges grown in that district under any weekly volume regulation.

The orders require the committee to submit their marketing policies and supporting information to the U.S. Department of Agriculture (USDA) prior to any recommendation for regulation. The information is analyzed by the USDA, with other information, to determine if regulation of the fresh domestic market (including Canada) would tend to effectuate the declared policy of the Act.

Moreover, when formulating their annual marketing policy the committees shall thoroughly evaluate the onset and duration of prorate, the length of prorate

periods, and size regulation. Accordingly, the orders will be amended to contain such requirements. The marketing policy must specifically address these points and contain an analysis of the effects of the recommendations as well as the economic and marketing conditions affecting the crop. In addition, in order to provide further opportunity for public comment on regulatory actions, the Department will have a summary of the committees' respective marketing policies published in the Federal Register. Information gathered through such a process should aid the Department in evaluating the respective marketing policies and the need for, or level of, regulation for the ensuing season.

(5) At the time the 1983-84 marketing policy for navel oranges was recommended the Navel Orange Administrative Committee committed itself to recommending open movement after a fixed percentage of the crop in each district had been shipped. The Secretary concurred with this approach. Based on such approach it is recommended that the committees consider annually recommending open movement after a specific percentage of the crop has been shipped in each district. Such recommendation must be made at the time the committees formulate their marketing policies and be included in that marketing policy.

(6) Testimony at the hearing indicated that the orders should permit exemption of a specific size or sizes of oranges from the prorate provisions when economic or marketing conditions so warrant. Such testimony was in reference to (but not necessarily limited to) the strong demand for large size navel oranges prior to the Christmas holiday season.

The navel and Valencia orange marketing orders contain provisions authorizing regulations limiting the sizes of oranges which may be shipped to fresh domestic market. Shipments of excessive amounts of unusually small or large size oranges result in price discounting, which tends to depress prices and returns for all sizes. In addition, some oranges are so heavily discounted that they do not pay the direct costs of harvesting and marketing.

The limitation of small or excessively large sizes of oranges contributes to the orders' objectives of orderly marketing and improving returns to producers by limiting discounting and by maximizing the quantity of desirable-sized oranges shipped to the fresh domestic market. Historically, the committees have recommended, and the Secretary has issued size regulations, which have

prohibited the shipment of specific large or small sizes of oranges. The committees have never recommended exemptions of any sizes of oranges from volume regulation, perhaps in part because of uncertainty as to whether the current provisions included authority for such action. However, an exemption of specific sizes of oranges from prorate provisions is authorized. Moreover, such regulation may also be made on a prorate district basis, because of the varying size composition of oranges grown in various districts.

(7) Under the orders, an individual handler's allotment is such handler's proportion of the limited quantity which may be shipped from the particular prorate district in any week. The method of allocating share requires a precise determination of the quantity of oranges currently controlled by each handler. Prorate base for each handler is calculated as the ratio of the total quantity of oranges available for current shipment controlled by each handler in such prorate district to the total quantity of oranges available for current shipment controlled by all handlers in the prorate district. Allotment for each handler is determined by applying each handler's prorate base to the amount of oranges to be shipped each week under either marketing order.

The orders currently require handlers to provide the respective committees with an estimate of their tree crops. It is necessary that such estimates be as accurate as possible. However, in the event of an error, omission, inaccuracy or inadequacy, there should be a specified procedure to be followed in correcting any such errors. Such procedure should include a written notification to the handler of the problem and afford the handler an opportunity to explain any questioned information.

Currently if either committee receives an application for prorate base that contains an error, omission, inaccuracy or inadequacy the committee is burdened with the responsibility of correcting such or providing a proper crop estimate. There is no procedure delineated whereby the committees can return such application to the handler for correction or completion. To provide a specified and uniform procedure, §§ 907.53 and 908.53 should be amended to require that estimates included in prorate base applications be in units of measure designated by the committees. Handlers would be required to include in their estimates the quantity of oranges available for current shipment from each grove (or portion thereof). Thus, the orders should authorize the

respective committees to recommend appropriate rules and regulations for the Secretary's approval to implement this change.

In carrying out these provisions the committees, through their designated employees, would have access to premises and records of handlers and may conduct a physical inspection of orange groves for purposes of verifying handler estimates or otherwise ascertaining the quantity of fruit available for shipment. If a handler does not permit such inspection, the committees would be unable to compute and issue the most accurate prorate base for the handler.

(8) Sections 907.56 and 908.56 of the orders should be amended to authorize handlers to carry forward without forfeiture of allotment, undershipments of allotment, other than early maturity allotment, to the next two succeeding weeks unless the committees recommend and the Secretary approves a shorter or longer period. Carry forward of undershipments of a handler's allotment is currently limited to the first succeeding week following the week in which the undershipment occurred. Undershipped allotment which is not used or loaned to another handler is forfeited. Handlers seek to avoid forfeitures of allotment because such forfeited allotment is irrevocably lost. The record indicates the desirability of extending the period for which undershipments may be carried forward to cope with unusual circumstances. For example, adverse weather may hamper harvesting operations to the extent that a handler has insufficient fruit for shipment and does not use the full amount of allotment.

The orders should be amended to authorize the Secretary, based upon committee recommendations, to increase or decrease the number of weeks that undershipments of allotment may be carried forward as experience is gained in the administration of these provisions. For example, it may be desirable to increase the number of weeks in the undershipment carry forward period to mitigate the impact on the market of handlers shipping unsold fruit simply to avoid forfeitures of allotment. Also, it may be prudent to limit the number of weeks the undershipment may be carried forward in the event that multiple week prorate periods are instituted and carryover of undershipped allotment is sufficiently large in the aggregate to cause market disruption. The committees should also be authorized to recommend increasing or decreasing the number of weeks over which undershipments of allotment may

be carried forward for other good and sufficient reasons. Any changes in these provisions should be recommended by the respective committee as near to the beginning of the particular marketing season as possible and should be applicable to the entire season unless unusual circumstances warrant intraseasonal changes in carryover of undershipments affecting a portion of the season. Therefore, in order to provide additional flexibility to handlers in marketing their fruit the orders should be amended to authorize the respective committee to establish, with the approval of the Secretary, the number of weeks that undershipments of allotment may be carried forward into succeeding prorate periods, but in the absence of recommendation the period for carrying forward undershipments will be two weeks.

A proposal was advanced at the hearing which would delete provisions concerning forfeitures of allotment and allow a handler to "bank" any unused portion of an allotment. Testimony suggested that the proposed amendment would add stability to the marketing of oranges. Whatever its other merits, the proposal lacks sufficient precision with respect to allotment banking to be workable e.g. requirements governing deposits and withdrawals of allotment and other administrative details. Therefore, the proposal is denied.

(9) California Citrus Mutual proposed at the hearing that the orders be amended to authorize the inclusion of shipments of fresh navel and Valencia oranges to Mexico as a part of a handler's prorate. Historically, such shipments have not been a part of a handler's prorate quantity. Mexico is not included in the "domestic" market because sales of navel or Valencia oranges to Mexico do not directly compete with sales in the continental U.S. or Canada.

Several witnesses stated that the current orders provide opportunities for handlers to violate the terms of the marketing orders by rerouting to the domestic market fruit which was originally destined to Mexico. However, any such opportunity to violate the orders does not warrant a potentially significant increase in the orders' regulatory authority such as that which would occur by including shipments to Mexico as part of a handlers prorate quantity. Compliance problems associated with shipments of oranges to Mexico should be directly addressed by reviewing or strengthening the reporting requirements associated with such shipments, not by establishing regulation in a market which differs in

many characteristics from the domestic market. For these reasons, the proposal to permit inclusion of shipments to Mexico in a handler's a prorate is denied.

(10) Sections 907.33 and 908.33 of the orders should be amended to authorize the committees to participate in market promotion projects, for navel and Valencia oranges, including paid advertising. The primary objectives of such projects are to promote consumer awareness, increase per capita consumption and improve producers' returns for fresh California-Arizona navel and Valencia oranges. The committees should have the authority to decide, subject to the approval of the Secretary, the particular types of advertising and publicity projects that should be employed, singly or in combination, to attain their objectives. Such projects should include such promotional techniques as publicity, education, merchandising, dealer service work, and newspaper, radio, television and magazine advertising as may be necessary considering the circumstances existing during the particular season or anticipated in future seasons. The expenses of such projects shall be paid from funds collected pursuant to §§ 907.41 and 908.41. Addition of this authority to the marketing orders does not compel the committees to initiate market promotion projects, but merely provides the necessary authority in the event such action is deemed advisable.

The brief filed by the committees in opposition to this amendment maintained that no data was presented at the hearing which demonstrates that such authority would be effective for the navel and Valencia orange industries. Yet evidence indicates support for such authority under the orders. Based on the record, it is concluded that the orders should be amended to provide authority for market promotion, including paid advertising, for oranges.

(11) Sections 907.54 and 908.54 of the marketing orders should be amended to provide authority, through rules and regulations, which would permit each handler to receive, in addition to other allotment and overshipment allowances, a special allotment designated as "marketing incentive allotment." Such allotment would be available to handlers to be used in conjunction with the handler's market development programs. The record indicates that lack of available allotment has at times inhibited some handlers from participating in such programs. Additional allotment in the form of marketing incentive allotment should

provide handlers with the necessary flexibility to take advantage of special marketing opportunities.

The precise quantity of marketing incentive allotment to be issued to handlers and the period of time during which such allotment may be used should be established by regulation recommended by the respective committees and approved by the Secretary. One proposal suggested that marketing incentive allotment be fixed at 20 percent of a handler's allotment during a specific prorate period. The committees should consider such proposal and other options which would promote handler initiative in marketing oranges consistent with the objectives of the orders. Furthermore, nothing should preclude the committees from recommending, and the Secretary approving, limitations on the use of marketing incentive allotment if such use would be counterproductive to the objective of orderly marketing of oranges.

Administrative rules and regulations to implement marketing incentive allotment provisions should specify the method of applying for and issuing such allotment. The regulations should specify a period of time during which handlers would apply to the committee so that it may have sufficient time to act on the handler's application. The application should specify the amount of marketing incentive allotment needed by the handler for a particular promotional effort and contain a general outline of the promotional plan. Advance notification should not present any difficulty for handlers since handler preparations for promotion begin well in advance of shipments and handlers should have a reasonable estimate of the quantity of fruit needed for the promotion. The committee would grant an amount of marketing incentive allotment requested by the handler, within the maximum amount authorized, subject to appropriate safeguards to be recommended by the committee and approved by the Secretary. The committee should be empowered to verify the information submitted by the handler, and such verification could include an audit of appropriate handler's records.

The respective committee should be vested with the authority to designate the various kinds of promotional programs for which marketing incentive allotment may be used. One example cited in the record is fund-raising programs. These programs involve the purchase of fruit from handlers by local community groups and others to raise money for special projects through the

direct sale of fruit to consumers. Other promotional activities for which marketing incentive allotment may be used could include consumer and trade advertising and market research and development projects aimed at increasing sales of oranges.

In the administration of these provisions, it is intended that the committee staff, including the manager and employees designated by the manager, would review promotional programs submitted by handlers to determine whether the proposed promotion activity conforms with the kind of promotional program for which marketing incentive allotment may be used. The committee staff should make its recommendations to the committee for approval or disapproval of the proposed program but shall not disclose the particular details of the handler's promotional program to the committee and shall maintain the confidentiality of such information. The Committee shall approve or disapprove of the proposed marketing incentive program and notify the handler accordingly.

The orders currently permit handlers to overship their weekly allotment by an amount equivalent to 20 percent of such allotment, or one carload, whichever is greater. The marketing incentive allotment is in addition to the handlers' allotment and overshipment tolerance. To promote handler participation in market development efforts, marketing incentive allotment should not be deducted from a handler's allotment in succeeding weeks. However, the record indicates that it may be desirable to provide for a deduction against the quantity of oranges which a handler has available for current shipment in the event that the handler fails to use all or a portion of the marketing incentive allotment issued or uses the marketing incentive allotment for other than the purposes specified. For example, a quantity of oranges equaling the full amount of marketing incentive allotment issued but not used in an approved promotional program could be deducted from the quantity of oranges which the handler has under control. Provision for such deduction should discourage handlers from inflating requests for marketing incentive allotment. In addition, inappropriate use of marketing incentive allotment, e.g. shipping a percent of that allotment to markets other than those approved to receive marketing incentive allotment, should result in a corresponding reduction in the handler's tree crop. Such provision should discourage handlers from shipping their marketing incentive allotment as rollers (unsold fruit without

a specific destination) or for other than approved purposes. In making their determination on this matter, the committees should review handler documentation and records regarding the use of marketing incentive allotment as well as other information submitted to the committees. Moreover, marketing incentive allotment should be used during the prorate period for which it is issued and since such allotment is for special purposes of individual handlers it cannot be loaned or transferred to other handlers. The committees may recommend, and the Secretary may, at his discretion, establish rules and regulations as are necessary to administer these provisions.

An alternative marketing incentive proposal was advanced at the hearing. This proposal would provide a handler exemption from volume regulation for the promotion of oranges in an amount equal to 10 percent of the handler's tree crop. The proposal would also provide procedures by which handlers would notify the committees of the use of such exempt oranges and specify that handlers submit reports to the committees one week after such shipment. This proposal would permit the full amount of the marketing incentive allotment to be used at any time during the season including the initial prorate periods. The proposal contains significant deficiencies in terms of assuring regulatory compliance since: (1) Prior to the committees' determination of the handlers' tree crop handlers may use their own estimates of tree crop in calculating the total quantity exempt from regulation and any error in the handler's estimate of tree crop results in a corresponding error in the quantity to be exempted; (2) handlers would report to the committee the quantity shipped under exemption one week after shipment which would preclude disclosure of any error or miscalculation until after the shipment has been made; and (3) the possibility that many handlers responding simultaneously and strongly to some market phenomenon in a single period could have a disruptive and price depressing influence on the market caused by the sudden appearance of large volumes of fruit. In view of this, and the flexibilities contained in the marketing incentive provisions which have been recommended for inclusion in the orders, this alternative marketing incentive proposal is denied.

The brief filed by California Citrus Mutual opposed the recommended marketing incentive provisions on the basis that: (1) The effect of the marketing incentive allotment

provisions could be negated by committee action with respect to the prorate recommendations; (2) penalty provisions for nonuse of incentive allotment could be excessive, and (3) provisions do not limit the number of periods in which incentive allotment can be used. The brief expressed support for a modified marketing incentive proposal.

With respect to prorate recommendations, the committees currently recommend the quantity of oranges which they deem advisable to be handled in a prorate period. They submit such recommendations to the Secretary together with the supporting data for the recommended quantity. Marketing incentive allotment is a separate allotment to be issued for special purposes, i.e., development and expansion of markets, and would not be included in the committees' prorate recommendations. In this respect, the proposal is similar to overshipment provisions under these orders. As to repayment of marketing incentive allotment, such provisions may be instituted under administrative rules and regulations if conditions warrant. However, there would be no deduction of marketing incentive allotment from the handler's tree crop except if the handler fails to use the marketing incentive allotment issued or fails to use such allotment for the purpose specified and approved.

On the basis of the record, it is concluded that this marketing incentive provision should be added to these orders with specific quantities and time periods as recommended by the committees and approved by the Secretary.

(12) Section 907.60 and 908.60 of the respective orders should be amended to change provisions governing the allocation of early maturity allotment among handlers. Early maturity allotment is issued to handlers who have oranges which are mature prior to the time of general maturity of oranges and who make application for such allotment. The provision for early maturity allotment is included in the orders to facilitate the issuance and use of allotment at the time when the handlers do not have oranges of sufficient maturity for immediate handling.

Currently, whenever the committees deem it advisable to grant the full amount of early maturity allotment requested by handlers, they allocate such allotment on the basis of requests. However, when less than the full amount of early maturity allotment requested is granted, the requests of each handler are granted in the same

proportion as the handler's tree crop is to the tree crop of all requesting handlers. Under this procedure, problems have arisen in allocating the reduced early maturity allotment among handlers who control a high percentage of early maturity oranges relative to their tree crop vis-a-vis handlers controlling a small percentage of early maturity oranges relative to their tree crop. In this situation, the procedures for allocating early maturity allotment on the basis of a handler's tree crop could result in proportionately less early maturity allotment for early maturity fruit handlers with a smaller prorate base. One alternative approach which was suggested at the hearing would allocate early maturity allotment proportionately among requesting handlers so that each handler would have an equal share of early maturity allotment irrespective of total tree crop controlled by a handler.

The record indicates that allocating early maturity allotment on the basis of requests is feasible if requests for early maturity allotment accurately reflect the needs of handlers for such allotment. In fact, however, some handlers apply for more early maturity allotment than they intend to utilize during the period for which such allotment is requested while other handlers apply for early maturity allotment in the amount they desire to ship. In this situation, proportionate reduction of handlers' requests can result in total shipments of early maturity oranges in amounts less than market requirements.

The orders currently allow for a reduction from the handler's tree crop in an amount equal to the amount of unused early maturity allotments. However, as indicated, this provision has not deterred some handlers from requesting more early maturity allotment than they can use. Therefore, the orders should be amended to permit a greater reduction of a handler's tree crop for failure to use early maturity allotment. The record indicates that a limit should be placed on the maximum amount of tree crop reduction for nonuse of early maturity allotment. A reduction not exceeding twice the amount of unused early maturity allotment appears reasonable and should deter handlers from inflating requests. The record indicates that the applicable administrative procedures to effect adjustment of a handler's tree crop for nonuse of early maturity allotment should be established in rules and regulations recommended by the committees and approved by the Secretary.

There were several objections to this proposed amendment. The principal

objection was that the precise rules and regulations for allocating early maturity allotment had not been fully defined at the hearing. The record evidence indicates that the proposal is designed to provide the committees with the basis for recommending an alternative method of allocating early maturity allotment if the circumstances warrant. If a specific recommendation is made, interested persons would be afforded an opportunity to file comments under informal rulemaking proceedings.

The orders now provide for transfer of early maturity allotment among handlers who received early maturity allotments in the same weekly period. Any such transfer by handlers must be approved by the committees. Such provisions should be retained except that transfers of early maturity allotment should be arranged by the committees to facilitate such transfers and assure compliance with these provisions. Consistent with the proposal the reference to the transfer or issuance of early maturity allotment on a prorate district basis should be deleted from these provisions.

Under the terms of the orders handler's general maturity allotments are based on the relative quantity of the total tree crop which each handler controls in the district. The determination of each handler's tree crop is made by the respective committee at the beginning of the season and subsequently adjusted to correct errors, omissions or inaccuracies and to reflect gain or loss of control of oranges by each handler. Shipments of oranges made prior to general maturity are not deducted from the handler's tree crop base. One witness maintained that the failure to deduct shipments of early maturity oranges and other fruit utilized prior to general maturity from prorate base calculations affords certain handlers with the opportunity for so-called "double-dipping", i.e., earning prorate on oranges shipped prior to general maturity. This witness offered a proposal to amend the navel orange order to require the deduction of shipments of oranges made prior to general maturity from handler's tree crop and the tree crop so adjusted would serve as the basis for computing prorate base and general maturity allotments.

The proponent reviewed the history and operation of the early maturity provisions and introduced several exhibits, including USDA documents, relative to amendments to these provisions which became effective in 1962. The 1962 amendment deleted the requirement for offsetting early maturity

allotment after general maturity had been reached. The purpose of the 1962 amendment was to encourage handlers to ship early maturity fruit before the general maturity period. Record evidence indicates that the entire industry benefits from the early shipment of oranges since this reduces the quantity of oranges that must be marketed after the oranges attain general maturity. However, the evidence also indicates that some changes have occurred in the industry with respect to early maturity fruit, including development of newer varieties of oranges which mature earlier. Based on changing conditions, the committee should be empowered to recommend the deduction of shipments of oranges made prior to general maturity from handlers' tree crop bases. Prior to making any such recommendation, the committee should thoroughly evaluate the need for making changes in the current prorate system and the economic impact on growers and handlers of such a change. In addition, because both orders are likely to deal with similar situations with respect to early maturity oranges, it is recommended that the Valencia order also be amended to provide the same authorization.

(13) Sections 907.21 and 908.21 should be amended to provide that membership on committees be limited to three consecutive two-year terms of office. Thereafter, an individual would have to be off the committee, as a member, for a two year period before being eligible to be nominated to a committee member position. However, any such individual could serve as an alternate (if so nominated) during such two-year period.

Current provisions of the orders do not limit the number of two-year terms that members of the committees may serve. However, to promote increased industry participation and involvement in the administration of the marketing orders in question it is concluded that a limitation on the maximum number of consecutive terms of office is appropriate.

Many witnesses testified in regard to the limitation on the number of terms of office members of the administrative committees should serve. Such proposals on tenure ranged from three to ten years; modification of the two-year term was also suggested. However, the evidence suggests that six consecutive years (three two-year terms) is the maximum amount of time that an individual should serve and that the present two-year term of office is satisfactory. This period allows sufficient length of time for a member to become thoroughly familiar with the

operations, role and functions of the respective committees to a degree necessary to insure administrative continuity. At the same time, a maximum of six years of consecutive service will readily promote member turnover and achieve greater industry participation in committee activity.

To promptly implement this change, any member of the NOAC who has served three consecutive two-year terms ending September 30, 1984, would not be eligible to again be nominated for a member position on the NOAC until nominations are made for the term beginning October 1, 1986. And any member of the VOAC who has served three consecutive two-year terms ending January 31, 1986, would not be eligible to again be nominated for a member position on the VOAC until nominations are made for the term beginning February 1, 1988. Any person eligible to be nominated for a member position on the committee may be nominated to serve as an alternate member.

It would serve no useful purpose to limit the tenure for alternates or additional alternates because alternate committee members serve only during the absence of a member or in the event of member's death, removal, resignation or disqualification. Members occasionally resign before completing a full term (e.g. change their business affiliation). When a member resigns, the vacated position is filled only for the remainder of the uncompleted term. It is intended that the limitation on tenure be based upon full two-year terms.

Elimination of the first sentence in §§ 907.21 and 908.21 is also recommended to remove obsolete language. Those sentences established the first terms of office for members when the orders were established in 1953 and 1954.

(14) The orders should be amended to require periodic continuance referenda. Periodic referenda would provide the orange industries with a means of regularly reassessing the level of producer support for these orders. Testimony presented by a witness for the committees favored amending §§ 907.83 and 908.83 to provide that a referendum be held no later than ten years following the effective date of these amended sections, and every ten years thereafter, to ascertain if growers favor continuance of the respective orders. Such testimony also indicated that if a continuance or affirmative amendment referendum were held within such ten year period, the next periodic continuance referendum would be held by August 1 (navel oranges) and October 15 (Valencia oranges) of the

tenth year following such referenda. The committees' witness also proposed changing a provision in the current orders (§§ 907.83(c)(2) and 908.83(c)(2)) when continuance is not favored by three fourths of the producers or by producers of two thirds of the volume of oranges produced during a representative period. The committees' witness proposed that the orders be amended to authorize termination of the orders on the basis prescribed in section 608c(16) of the act, i.e. if termination is favored by a majority of the producers who have produced more than 50 percent of their volume of oranges produced for market during a representative period.

Testimony was offered by a witness representing CTMO stating that the orders should be amended to provide that a mandatory continuance referendum be held not less than every 3 years. The witness suggested that such amendment should provide for a continuance referendum within 120 days from the date the committees receive and certify a petition signed by at least 5 percent of the industry's growers requesting a referendum.

Based on evidence and testimony submitted at the hearing relative to periodic referenda, the orders should be amended to include such a requirement. However, holding a continuance referendum each three-year period is too short a period, in that the level of grower support for the orders is not usually subject to dramatic changes over a relatively short period of time. On the other hand, the ten-year period seems to be too long an interval between regular referenda. Therefore, those proposals are denied. However, a period of six years between referenda appears to be desirable and satisfactory. Thus, the orders should be amended to provide that a continuance referendum be held by August 1 (navel oranges) and October 15 (Valencia oranges) of the sixth year following the effective date of this section and each six years thereafter without specific requirements calling for a special referendum. Also, if as proposed, five percent of the growers could request a referendum, the Secretary could constantly be engaged in conducting continuance referenda. This would be costly and unnecessary because the amendment adopts a referendum every six years, therefore that proposal is denied. In the event there is a demonstrated reason, including a significant number of petitioners, the Secretary can hold a continuance referendum at any time.

It was proposed by the committees that if a referendum on amendment of

the orders was held within the designated period of time (originally ten years as recommended by the committees), then the next continuance referendum would be held by August 1 for navel oranges and by October 15 for Valencia oranges of the tenth year following such referendum. This proposal to postpone an otherwise regularly scheduled referendum would tend to negate the purpose of a periodic continuance referendum. For that reason, and because amendatory referenda do not necessarily reflect grower sentiment regarding the entire program, a regularly scheduled referendum on termination of the orders should be held regardless of whether amendatory referenda are held during any prior six-year period.

A committee witness testified in support of the committees' proposal to change the number of producers required to approve termination of the orders. Such recommendation would change the requirement from continuance as defined in the orders, of $\frac{1}{4}$ of the producers by number or $\frac{1}{3}$ of the producers by volume, to termination by a simple majority by volume and number of the growers. It was revealed under cross-examination that such change would give the major cooperative marketing organization the ability to effectively control the outcome of any such referendum by bloc-voting. This proposed change would soften the requirements at a time when the orders remain controversial and their support is often challenged or questioned. Thus, no change is recommended in the percentage required for continuance of the orders and that proposal is denied.

(15) Under the orders, the administrative committees are composed of growers, handlers and a nonindustry member. Growers and handlers affiliated with the major cooperative marketing organization, other cooperative marketing organizations or independent growers, (i.e., not affiliated with any cooperative marketing organization) are allocated a specific number of positions on the committees.

It was proposed at the hearing by CTIMO that the orders be amended to establish administrative committees composed solely of growers (9 members) and public members (2 members) and revise voter eligibility and other procedures. Testimony in support of this proposal did not adequately demonstrate the need to exclude handlers from the committees, nor did it fully explain how growers would obtain or interpret the marketing information and expertise currently supplied by

handler members. The proposal was also ambiguous as to how grower representation on the committees would be apportioned among the production areas and how an additional public member would be beneficial to the orders. Therefore, the proposal is denied. In addition the CTIMO proposal relative to procedures for nomination is denied since it relies on adoption of the above denied proposal.

Testimony received at the hearing relative to CTIMO's proposal to reorganize the committees and the NOAC/VOAC proposal to define cooperative marketing organization raised concerns about committee representation for those growers represented in the other cooperative category (i.e. cooperative organization handling less than 50 percent of the total volume). Due to changes in the navel orange industry's structure the absolute number of growers in the other cooperative category has declined significantly. Thus, committee representation for those navel orange growers is proportionally greater than for such growers in the other affiliation categories. As mentioned in the brief submitted by California Citrus Mutual, one solution to this problem would be to reorganize the committees' representation into two categories: Those growers affiliated with the major central marketing organization and all other growers. It was argued that such proposal would place all growers not affiliated with the major central marketing organization on an equal footing. Under this proposal, the major central marketing organization would retain its current three grower and two handler members and their respective alternates. The "all other growers" category would have equal representation on the committees with their three grower and two handler members and alternates. However, this would be a radical departure from the representation the other cooperatives have experienced for over 30 years and would deny them representation based on their cooperative structure.

To afford continued equitable cooperative representation and at the same time to allow more flexible representation by growers affiliated with independent marketing organizations it is concluded that navel orange industry views would be better and more equitably represented by changing the requirements for NOAC representation between the three grower affiliation categories (major cooperative marketing organization, other cooperative marketing organization, and independent marketing organization).

Specifically, the NOAC would consist of three grower members and two handler members representing the major cooperative, one grower member representing the other cooperative marketing organizations, and two grower members and two handler members representing the independent organizations.

Because the structure of the Valencia orange industry has not undergone a significant change in the absolute number of growers in the other cooperative category, there is no compelling reason to realign the VOAC's affiliation categories. However, both orders should be amended to require a minimum of one grower member for each category which has at least five percent of the total volume of oranges handled. In establishing a minimum level of representation it is also recommended that a maximum of three grower and two handler members for any one category be allowed. Such requirement would continue to allow maximum representation of those in the industry affected by committee discussions, actions and recommendations. In addition, this amendment to the orders is recommended with the provision that nominations from the "all other growers" category be obtained by mail balloting. Mail balloting will encourage greater participation in the nominating process, and procedures to effectuate this recommended amendment should be developed by the committees as soon as possible and recommended to the Secretary for approval through rules published in the *Federal Register*. The development of such mail balloting procedures should encompass the means by which slates of nominees will be developed, how such nominations will be announced to the industry, how nominees will be selected and the dates by which such nomination procedures will be conducted.

An integral part of the change in committee representation is the assumption that the major cooperative marketing organization handles more than 50 percent of the total volume of oranges handled during the marketing year in which nominations for members and alternate members are made. However, the percentage of the total volume of oranges handled by the major cooperative marketing organization may not always exceed 50 percent. Therefore, the orders should be further amended to provide for reapportioning the committees' representation between the major cooperative marketing organization, other cooperative marketing organizations and

independent marketing organizations. Such reapportionment should be allocated in the following manner: (1) If a cooperative handled 50 percent or less, but more than 40 percent of the total quantity of oranges handled in fresh domestic channels, such cooperative would be entitled to two grower members, two handler members, their respective alternates and additional alternates; (2) if a cooperative handled 40 percent or less, but more than 30 percent of the total quantity of oranges handled in fresh domestic channels, such cooperative would be entitled to two grower members and one handler member, their respective alternates and additional alternates; (3) Any reapportionment of membership shall be allocated proportionately to the groups which has the greatest increase in oranges handled in fresh domestic channels; and (4) Should no cooperative marketing organization handle more than 30 percent of the total quantity of oranges handled in fresh domestic channels, then all positions on either committee shall be nominated by mail ballot without regard to affiliation.

The orders should not be amended to define cooperative marketing organization. Such proposal would effectively prohibit growers affiliated with cooperative marketing organizations who market their fruit through independent marketing organizations from being represented on the committees, as cooperatives. Therefore, the proposal is denied.

The committees recommended two additional changes in committee structure. These were to designate the member (and such member's alternate) who is not a grower or handler, or employee, agent, or representative of a grower or handler, as the public member (and alternate public member), and to provide for additional alternate handler members. Designating individual public members and alternate members on the committees more clearly indicates the desire of the industry for these voting members to clearly reflect the interests of the public at large, including consumer interests. Provision for additional alternate handler members should assure representation on the committees in the event of the absence of both the handler member and alternate. The orders should be so amended to make these changes in the composition of the committees.

In addition, it is recommended that the orders be amended to provide that the Secretary select and appoint the public member and alternate from qualified persons. Historically, in accordance with the orders, the

Secretary has selected the non-industry member from those persons recommended to him by the administrative committees. It is felt that such amendment will serve to give notice that the Secretary may appoint a public member, and respective alternate from any of a number of sources. The public and industry at large, as well as respective committees, are encouraged to submit nominees for consideration and action by the Secretary. The public member is to be a full participant in the affairs of the committees, and is expected to vote at all committee meetings.

The record clearly established the need of this industry to be more unified and cohesive in its approach to regulation of product to market. To achieve this unity, and to bring these orders more in line with the majority of other orders having similar provisions for regulation, and to reflect the clarified role of the voting public member and alternate, it is necessary to revise the committees' procedures relative to quorum and voting. Seven members of the committee shall constitute a quorum and any action of the committee shall require at least seven concurring votes.

(18) Sections 907.31 and 908.31 should be amended to provide that grower and handler members and alternates of the administrative committees shall be compensated at a rate not to exceed \$100 per day or portion thereof spent in performing duties under the orders. The current provisions of the orders limit such compensation to an amount not exceeding \$25 per day or portion thereof. The evidence adduced at the hearing supports an increase in the rate of compensation for all committee members. It was recommended that the precise rates be recommended by the committees and approval by the Secretary.

Current provisions of the orders provide that alternate members receive compensation only when acting as members of the administrative committees. Providing for alternate members to be compensated for attending meetings even though the committee member also attends appears likely to increase alternate member participation at meetings. This is desirable because alternate members need to become familiar with issues before the committees, and the experience is helpful in contributing to committee deliberations and recommendations in the event an alternate is required to serve for an absent member.

The substance of the testimony favoring the increase did not suggest

that the recommended maximum rate of compensation was in any way considered to be a payment or partial payment for services rendered. The current compensation rate was set when these sections were last amended in 1970. The recommended increase in the rate of compensation recognizes increases in costs incurred by members and alternates since that time. It was indicated that while the \$100 figure was a maximum amount for grower and handler members, the compensation could be a lesser amount as recommended by the respective committees and approved by the Secretary.

One witness recommended an alternative proposal regarding compensation of committee members. The proposed amendment would increase the compensation of committee members to \$250 per day from \$25 per day. The record indicates that \$250 per diem compensation for all committee members and alternate members would add substantially to the committees' operating costs but would not provide any more benefit to administration of the orders than the \$100 per diem discussed above. Thus, this proposed amendment is denied.

It is recommended, however, that the orders be amended to provide that the public member and alternate may be compensated at a rate greater than \$100, but not to exceed \$250 per day or portion thereof spent in performing duties under the orders. Such exact rate shall be established by the committees and approved by the Secretary. It is felt that the public member is likely to spend a significant amount of time in preparation for active participation and deliberation on matters before the committees and voting on such. It is further felt this contribution of time and development of expertise outside of their regular business functions and primary source of income should be compensated at a higher rate than that of grower and handler members.

(17) The orders should provide authority for the respective committee to impose an interest charge on any handler who fails to pay such handler's assessment within the time prescribed by the committees. In the event the handler thereafter fails to pay the amount outstanding, including the interest charge, within the prescribed time, the committees should be authorized to impose a one-time late payment charge on such outstanding amount. Nonpayment of assessments can have an adverse impact on the operation of the committees and could require them to borrow money and pay

interest to continue operation. Authority for the committees to levy an interest charge on unpaid assessments and to add a late payment charge to the outstanding delinquent obligation should encourage handlers to pay assessment obligations promptly. By paying the obligation when due, handlers would not be subject to either the interest or late payment charge. It would not be desirable to specify the interest or late payment charge in the orders because such charges change as the availability of money fluctuates. Therefore, the orders should permit the committee to recommend the interest rate and the late payment charge for the approval of the Secretary to provide the flexibility to make changes as needed. Opposition to the proposal contended that because only a few handlers were involved in nonpayment or late payment of assessments, there was no need for the proposed amendment. However, as stated, it is essential that all handlers pay assessment obligations when due. Therefore, it is concluded that the orders should be amended as hereinafter set forth.

(18) The marketing orders provide that the committees receive, investigate, and report to the Secretary violations of the orders. To accomplish this duty the orders require that handlers (and others conducting business with such handlers) submit certain applications and reports of the NOAC or the VOAC for purposes of assuring and verifying compliance with the orders. The AMAA provides that violators are subject to civil or criminal penalties.

The committees' ability to ensure compliance with the orders contributes to the statutory objectives of orderly marketing and improving returns to producers by minimizing the means of circumventing the provisions of the orders and maximizing the ability of the NOAC and VOAC to investigate and report violations of the orders in a timely fashion.

Compliance is primarily accomplished by means of reporting and recordkeeping. Such reporting consistently provides the committees with requisite information to successfully conduct audits of handlers' shipments.

Testimony presented by a committee witness proposed that the orders be amended to require that handlers maintain specific records for a specified number of years. Specifically, the proposal was to add a new §§ 907.73 and 908.73 *Records and Retention*, which would specify records to be maintained, specify a time period for such retention, require that such records be available to the committees and

require the confidential treatment of such records. The amendment would allow the committees to verify compliance with regulation under the orders and is consistent with § 8d of the act. In carrying out these provisions the committees, through their designated employees, would have access to premises and records of handlers and may conduct a physical inspection of orange groves for purposes of verifying handler estimates or otherwise ascertaining the quantity of fruit available for shipment. If a handler does not permit such inspection, the committees would be unable to compute and issue the most accurate prorate base for the handler.

Arguments offered in opposition to the committees' proposal stated that no significant need for the proposal had been demonstrated, it was unnecessary regulatory activity, it would impose undue costs and burdens on the industry, it would not enhance grower returns, it would divulge proprietary business information, and it would not solve the orders' enforcement problems. However, these assertions were not well substantiated. In fact, it is likely that the committees' ability to administer the marketing orders would be materially improved by the proposal. Therefore, the proposed amendment is adopted.

One portion of the recordkeeping proposal must be modified based on rules promulgated by the Office of Management and Budget (48 FR 13666). According to that rule the authority to approve record retention will be issued on a 3-year basis only. The proposed amendment would have required record retention for a 4-year period. For that reason, the 4-year period as originally proposed by committees is changed to a 3-year period. Furthermore, the evidence indicates that a new section in the rules and regulations should be added to establish exactly which records handlers should be required to keep pursuant to the the marketing orders.

(19) It was proposed at the hearing that order provisions relative to oranges handled for distribution to charitable organizations should be amended to provide more flexibility. Currently, all such oranges are not subject to regulation; however, a handler must notify the committees of such handling by filing an appropriate report, and the receiver must return a copy of the report to the committees indicating receipt of the fruit. This is done because of the committees' responsibility to ensure that oranges donated to charitable organizations do not enter commercial channels of trade.

At the hearing CTIMO proposed that §§ 907.67 and 908.67 be revised to

designate charities as those organizations so recognized under the Internal Revenue Code. Further, handlers could ship donations up to 100 cartons of fruit to any such organization without any kind of certification. A brief filed by the administrative committees opposed CTIMO's proposal to modify the provisions regarding charitable donations because it contained no means of assuring that oranges donated to charities would not enter competitive channels of trade. Moreover, the proposal had not demonstrated that the current order provisions are inadequate. Since the current applicable provisions do not appear on the record, to be particularly burdensome, the proposal advanced by CTIMO is denied. However, it is recommended and urged that the committees review the status of exemptions from regulation and recommend any changes which might improve or strengthen the desire or inclination for charitable giving by the industry.

(20) New sections 907.34 and 908.34 should be added to authorize addition of consumer affairs advisors to the committees. The orders should be amended to so provide and allow the committees to determine appropriate compensation and duties.

Testimony in favor of this amendment indicates that such advisors would likely be employed by the committees on an irregular but specialized basis. Their duties would involve advising the committees relative to the impact upon consumers of regulatory action being considered.

Consumer affairs advisors might include for example, home economists, employees of State Departments of Food and Agriculture or editors of the food and nutrition section of a local newspaper. However, such advisors would not be limited to persons with these types of backgrounds.

Opposition to this proposal was raised by several individuals who testified that a need for such advisors had not been established, the proposed order language was vague and their duties has not been defined. Yet, several witnesses who testified against the specific proposal supported the concept of consumer affairs advisors. On the basis of the record it is determined that amendment of the orders to add such authority is appropriate; therefore, the proposal is adopted.

(21) Sections 907.17 and 908.17 of the orders should be amended to revise the term "carload" to mean a quantity of navel or Valencia oranges equivalent to 1,000 cartons of oranges. For many years the California-Arizona orange industry

has considered a carload of oranges to be 1,000 rather than 924 cartons. Thus, this amendment is necessary to update the order language to reflect the current industry meaning of the term carload and is adopted.

(22) Sections 907.70 and 908.70 of the orders should be amended to insert the words "each person who first handles oranges" in lieu of "each handler". Since 1953 the committees have interpreted these sections as requiring that weekly reports be filed by those who first handle oranges rather than any subsequent handler.

Testimony offered in support of this proposal stated that employing a literal interpretation of the current sections would require those who performed orange handling functions, subsequent to the time the fruit was first handled, to file such reports. This would be unnecessary and duplicative. Those who opposed the proposal stated that it was an unnecessary extension of the orders' regulatory authority and the proposed language was vague. However, the proposed language makes clear the responsibilities and duties of the first handler with respect to the filing of weekly reports and does not constitute any additional regulatory authority. For these reasons it is adopted.

(23) A proposal in the notice of hearing by the Department was that consideration be given to making such other changes in the orders as may be necessary to make the entire orders conform to any amendments that may result from this proceeding. This proposal was supported at the hearing without opposition, and such changes as are necessary are being incorporated into the orders.

There was a proposal submitted by the committees in the notice of hearing that provisions of the marketing agreements and orders concerning §§ 907.32 and 908.32, *Annual review and meeting* be amended. This proposal was withdrawn at the hearing; testimony was not presented in its support. In addition, several other proposals submitted by California Citrus Mutual which were contained in the Notice of Hearing were withdrawn at the hearing. Their proposals, numbers 2-7, were withdrawn at the hearing and testimony was not presented in their support.

There was also a proposal included in the notice of hearing submitted by the committees upon which testimony was given that the marketing agreements and orders be amended by adding new §§ 907.74 and 908.74, *Failure to report*. Although testimony was introduced for and against this proposal, subsequently the proposal was formally withdrawn at the hearing.

Rulings on Briefs of Interested Persons

At the conclusion of the hearing, the Administrative Law Judge fixed August 15, 1983, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based on the evidence received at the hearing.

A brief filed on behalf of the U.S. Small Business Administration by Frank S. Swain, Chief Counsel of Advocacy, argued that the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601, *et seq.*) applies to these formal rulemaking proceedings. He further states that the Agricultural Marketing Service, USDA, should consider preparing both an initial and final regulatory flexibility analysis with respect to these proceedings.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The Agricultural Marketing Agreement Act, however, requires the application of a uniform rule to those regulated, and it would take precedence if the two statutes were incompatible. The regulations proposed herein are the minimum necessary to accomplish the purposes of the Agricultural Marketing Agreement Act of 1937.

Marketing orders and rules proposed thereunder, however, are unique in that they are brought about through group action of essentially small entities for their own behalf. Thus both statutes have small entity orientation and compatibility.

While regulations issued under these orders impose some costs on affected handlers and the number of such firms may be substantial, the added burden on small entities, if present at all, is not significant.

Other briefs and proposed findings and conclusions were filed by Barbara Lindemann Schlei, Counsel for Berne H. Evans, III; Gary M. Cohen, and Phillip M. Eisenstat, of the U.S. Department of Justice; Dan M. Burt and James A. Moody, Counsel for the Exeter Orange Company, Inc.; William K. Quarles, for the California-Arizona Citrus League; Joel Nelson, for California Citrus Mutual; A. E. Canham, for the Navel and Valencia Orange Administrative Committees; R. E. Herrick, on behalf of Belridge Farms and Belridge Packing Company; and Thomas E. Campagne, Counsel for Riverbend Farms, Inc.

These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth herein. To the extent that any suggested findings or conclusions filed by

interested persons are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied.

General Findings

Upon the basis of the record it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition to, the previous findings and determinations which were made in connection with the issuance of the orders and previously issued amendments thereto. Except when such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed.

(2) The marketing agreements and orders, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(3) The marketing agreements and orders, as amended, and as hereby proposed to be further amended, regulate the handling of navel and Valencia oranges grown in the production areas in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in the marketing agreements and the orders upon which hearings have been held;

(4) The marketing agreements and orders, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(5) The marketing agreements and orders, as amended, and as hereby proposed to be further amended, prescribe, so far as practicable such different terms, applicable to different parts of the production area as are necessary to give due recognition to differences in the production and marketing of navel and Valencia oranges grown in the production area; and

(6) All handling navel and Valencia oranges grown in the production area as defined in the marketing agreements and orders, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

List of Subjects in 7 CFR Parts 907 and 908

Marketing agreements and orders, California, Arizona, Oranges (navel), Oranges (Valencia).

Recommended Further Amendment of the Marketing Agreements and Marketing Orders

The following amendment of the amended marketing agreements and marketing orders is recommended as the detailed means by which the foregoing conclusions may be carried out:

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. In § 907.10, the first sentence is revised to read as follows:

§ 907.10 Handle

"Handle" means to buy, sell, consign, transport, or ship oranges (except as a common or contract carrier of oranges owned by another person), or in any other way to place oranges in the current of commerce, between the State of California and any point outside thereof in the continental United States or Canada, or within the State of California, or between the State of Arizona and any point outside thereof in the continental United States or Canada, or within the State of Arizona. * * *

2. Section 907.17 is revised to read as follows:

§ 907.17 Carload.

"Carload" means a quantity of oranges equivalent to 1,000 cartons of oranges, or such other quantity of oranges, as may be established by the committee with the approval of the Secretary.

3. Section 907.18 is revised to read as follows:

§ 907.18 Export.

"Export" means shipments of oranges to points outside the continental United States and Canada.

4. Section 907.20 is revised to read as follows:

§ 907.20 Establishment and membership.

There is hereby established a Navel Orange Administrative Committee consisting of 11 members, for each of whom there shall be one alternate, and for each grower and handler member an additional alternate. Six of the members and their respective alternates shall be growers. Four of the members and their respective alternates shall be handlers, or employees of handlers, or employees of central marketing organizations. One member of the committee and an alternate of such member shall be

selected as provided in § 907.23 and shall be referred to in this part as the "public" member of the committee. The six members of the committee who shall be growers are referred to in this part as "grower" members of the committee and the four members who shall be handlers, or employees of handlers, or employees of central marketing organizations are referred to in this part as "handler" members of the committee.

5. Section 907.21 is revised to read as follows:

§ 907.21 Terms of office.

The term of office of each member and alternate member of the committee shall be for a period of two years, and such terms shall begin on October 1 of each even-numbered year: *Provided*, That such members and alternates shall serve in such capacities for the portion of the term of office for which they are selected and qualify and until their respective successors are selected and have qualified. The consecutive terms of office of members, not including alternate members or additional alternate members, shall be limited to three terms, beginning with terms starting October 1, 1978, and any qualified person is eligible to serve on the committee as a member if such person has not served during the preceding two years. Members of the committee who have served three consecutive two-year terms as of October 1, 1984 are not eligible to serve on the committee in a member position until October 1, 1986.

6. Section 907.22 is amended by revising paragraphs (a) and (b), (c), (d), (e), and (f) and adding new paragraph (g) to read:

§ 907.22 Nominations.

(a) With respect to paragraphs (b) and (c) of this section, the time and manner of nominating members, alternate members, and additional alternate members of the committee shall be prescribed by the Secretary. With respect to paragraph (d) of this section, the committee, with the approval of the Secretary, shall adopt procedural rules and regulations to be observed for: (1) The selection of candidates for member, alternate member, and additional alternate member nominations, and (2) the conducting of such nominations by mail balloting.

(b) Any cooperative marketing organization, or the growers affiliated therewith, which handled more than 50 percent of the total volume of oranges during the fiscal year in which nominations for members and alternate members of the committee are submitted

shall nominate no more than three grower members, three alternate grower members, three additional alternate grower members, two handler members, two alternate handler members and two additional alternate handler members of the committee. In the event that no cooperative marketing organization handled more than 50 percent of the total volume of oranges handled during the fiscal year in which nominations for members and alternate members of the committee are submitted, committee representation shall be reallocated in accordance with § 907.29(n) of this part.

(c) All cooperative marketing organizations which are not qualified under paragraph (b) of this section, or the growers affiliated therewith, shall nominate one grower member, one alternate grower member, and one additional alternate grower member.

(d) All growers which are not qualified under paragraphs (b) and (c) of this section shall nominate at least two grower members, two alternate grower members, two additional alternate grower members, two handler members, two alternate handler members, and two additional alternate handler members of the committee.

(e) When voting for nominees, each grower shall be entitled to cast one vote which shall be cast on behalf of such grower, the grower's agents, subsidiaries, affiliates, and representatives.

(f) The public member and an alternate public member of the committee, shall be selected by the Secretary pursuant to § 907.23 and shall not be growers or handlers, or employees, agents, or representatives of growers or handlers (other than a charitable or educational institution which is a grower or handler), or of a central marketing organization.

(g) Grower and handler member, alternate member and additional alternate member positions may be allocated pursuant to § 907.29(n) of this part.

7. Section 907.23 is revised to read as follows:

§ 907.23 Selection.

From the nominations made pursuant to § 907.22(b) or from other qualified growers and handlers, the Secretary shall select three grower members and two handler members of the committee, an alternate and an additional alternate to each such member. From the nominations made pursuant to § 907.22(c) or from other qualified growers the Secretary shall select one grower member of the committee, an alternate and an additional alternate to

such grower member. From the nominations made pursuant to § 907.22(d) or from other qualified growers and handlers the Secretary shall select two grower and two handler members of the committee, an alternate and an additional alternate to each such grower and handler members. The Secretary shall select one public member and one alternate public member of the committee.

8. Section 907.29 is amended by revising paragraph (n) to read as follows. The introductory text is shown for the convenience of the reader.

§ 907.29 Duties.

The committee shall have the following duties:

* * *

(n) With the approval of the Secretary, to reapportion the number of grower members or handler members on the committee who are nominated pursuant to § 907.22(b), (c), and (d). Any such reapportionment shall be allocated in the following manner: (1) Any cooperative which handled 50 percent or less, but more than 40 percent of the total quantity of oranges handled in fresh domestic channels, shall be entitled to two grower members, two handler members, their respective alternates and additional alternates; (2) any cooperative which handled 40 percent or less, but more than 30 percent of the total quantity of oranges handled in fresh domestic channels shall be entitled to two grower members, one handler member, their respective alternates and additional alternates; (3) any reapportionment based on § 907.29(n) (1) or (2) shall be allocated proportionately to either or both groups which have the greatest increase in oranges handled in fresh domestic channels; and (4) should no cooperative marketing organization handle more than 30 percent of the total quantity of oranges handled in fresh domestic channels, then all positions on the committee shall be nominated by mail ballot without regard to affiliation. *Provided*, That any reapportionment of membership would provide that no grower group could nominate more than five members regardless of the volume handled and each grower group would be entitled to nominate at least one grower member provided that such group handled at least five percent of the volume handled.

9. Section 907.30 is amended by revising paragraph (a) to read as follows:

§ 907.30 Procedure.

(a) Seven members of the committee shall constitute a quorum and any action of the committee shall require at least seven concurring votes.

* * *

10. Section 907.31 is revised to read as follows:

§ 907.31 Expenses and compensation.

The members and alternates of the committee shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part. Grower and handler members and alternates shall receive compensation at a rate to be recommended by the committee and approved by the Secretary which rates shall not exceed \$100 per day or portion thereof spent in performing such duties. The public member and alternate shall receive compensation at a rate to be recommended by the committee and approved by the Secretary which rate may be greater than \$100, but shall not exceed \$250 per day or portion thereof spent in performing such duties.

11. Section 907.33 is revised to read as follows:

§ 907.33 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of navel oranges. Such projects may provide for any form of marketing promotion, including paid advertising. The expense of such projects shall be paid from funds collected pursuant to this part.

12. A new § 907.34 is added to read as follows:

§ 907.34 Consumer affairs advisors.

The committee may appoint such consumer affairs advisors as it deems appropriate and determine the compensation and define the duties of such advisors.

13. Add a new paragraph (d) to § 907.41 to read:

§ 907.41 Assessments.

* * *

(d) Assessments not paid within a period of time prescribed by the committee may be made subject to interest or late payment charges, or both. The period of time, rate of interest, and late payment charge shall be as recommended by the committee and approved by the Secretary: *Provided*, That when interest or late payment charges are in effect, they shall be

applied to all assessments not paid within the prescribed period of time.

14. Section 907.50 is amended by redesignating paragraph (a)(7) as (a)(8) and adding a new paragraph (a)(7) to read:

§ 907.50 Marketing policy.

(a) Prior to the recommendation for regulation for each prorate district, the committee shall submit to the Secretary its marketing policy for the ensuing season. Such marketing policy shall contain the following information: (1) The available crop of oranges in the prorate district, including estimated quality and composition of sizes; (2) the estimated utilization of the crop, showing the quantity and percentages of the crop that will be marketed in domestic, export and by-product channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated shipments to be recommended to the Secretary during the ensuing season; (4) available supplies of competitive oranges in all producing areas of the United States; (5) level and trend of consumer income; (6) estimated supplies of competitive citrus commodities; (7) and evaluation and recommendation concerning the onset and duration of prorate, the length of prorate periods, and size regulations; and (8) any other pertinent factors bearing on the marketing of oranges. In the event that it becomes advisable to substantially modify such marketing policy the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this paragraph.

* * *

15. Section 907.51 is amended by revising paragraphs (a) and (c) to read as follows:

§ 907.51 Recommendations for volume regulation.

(a) The committee may recommend to the Secretary the total quantity of oranges which it deems advisable to be handled during the next succeeding prorate period in each prorate district: *Provided*, that the committee may establish a limitation on the maximum number of prorate periods during a season and the beginning and ending dates for such periods. If, for any reason, the committee recommends the issuance of volume regulation but fails to recommend to the Secretary the total quantity of oranges which it deems advisable to be handled during the next succeeding prorate period in each prorate district, views of the committee members with respect to its failure to

act shall be submitted promptly to the Secretary.

(c) At any time prior to or during the prorate period for which the Secretary, pursuant to § 907.52, has fixed the quantity of oranges which may be handled, the committee may, if such action is deemed advisable, recommend to the Secretary that such quantity be increased for such prorate period. Any such recommendation, together with the committee's reasons for such recommendation, shall be submitted promptly to the Secretary.

16. Section 907.52 is revised to read as follows:

§ 907.52 Issuance of volume regulation.

Whenever the Secretary shall find, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of oranges which may be handled in each prorate district during a specified prorate period will tend to effectuate the declared policy of the act, the Secretary shall fix such quantity. Such regulation may be made effective, as authorized by the act, irrespective of whether the season average price for navel oranges is in excess of the parity price specified therefor in the act. The quantity so fixed may be increased by the Secretary at any time prior to or during such period.

17. Section § 907.53 is amended by revising paragraphs (b), (c), (f), (g) and (h) and adding new paragraph (i) as follows:

§ 907.53 Prorate bases.

(b) Such application shall be substantiated in such manner and shall be supported by such evidence as the committee may require, and shall include at least: (1) The name and address of the producer or duly authorized agent, if any, for each grove or portion thereof, the fruit of which is included in the quantity of oranges available for current shipment by the applicant; (2) an accurate description of the location of each such grove or portion thereof, including the number of acres contained therein; (3) an estimate of the total quantity of oranges available for current shipment in terms of a unit of measure designated by the committee, contained in each grove or portion thereof described in paragraph (b)(2) of this section; and (4) an estimate of the total quantity of oranges available for current shipment by the applicant in terms of a unit of measure designated by the committee. If at the time of filing of an application under this section the

committee finds that there is an error, omission, inadequacy or inaccuracy in such application, or that any estimates contained in such application are not reasonably calculated to apprise the committee on the information required by this section, it shall return the application to the applicant for correction or completion. Applicants may resubmit applications to the committee for its consideration at any subsequent time.

(c) Each application shall include a certification by the handler that the handler has control, for all purposes relating to this part, of the oranges described in the application.

(f) When any person having a prorate base has remaining a quantity smaller than such person's allotment, such person shall be removed from the prorate base or that prorate base shall be reduced so that the allotment base thereon shall not exceed the quantity of oranges remaining under such handler's control; *Provided*, That such handler shall receive due allotment to the extent necessary to pay back loans which the handler is obligated to repay in any prorate period that repayment of loans may be due.

(g) The committee shall determine the accuracy of the information submitted pursuant to this section. Except as provided in (b) of this section, whenever the committee finds that there is an error, omission, inaccuracy, or inadequacy in any such information, it shall correct the same after granting the person who submitted such report a reasonable opportunity to discuss with the committee the factors considered in making the correction. If it is determined that an error, omission, or inaccuracy has resulted in the establishment of a smaller or a larger quantity of oranges available for current shipment than that to which a person was entitled under this part, such quantity shall be increased or decreased, over such period as may be determined by the committee, by an amount necessary to correct the error, omission, inaccuracy or inadequacy.

(h) During any prorate period when volume regulation is likely to be recommended, the committee shall compute, with respect to each prorate district, the total quantity of oranges available for current shipment by each person who has applied for a prorate base and for allotments, except as provided in paragraph (b) of this section. On the basis of such computation, the committee shall fix a prorate base for each person who is entitled thereto. Such prorate base shall represent the

ratio between the total quantity of oranges available for current shipment in the particular prorate district by each applicant and the total quantity of oranges available for current shipment in such district by all such applicants. The committee shall notify the Secretary of the prorate base fixed for each person and shall notify each such person of the prorate base so fixed.

(i) The committee shall, with the approval of the Secretary, adopt procedural rules and regulations to effectuate the provisions of this § 907.53.

18. Section 907.54 is revised by adding a new heading to the existing paragraph and designating that paragraph as paragraph (a), adding a new paragraph (b) to read as follows:

§ 907.54 Allotments.

(a) *General maturity allotments.* Whenever the Secretary has fixed the quantity of oranges which may be handled during any prorate period in a prorate district, the committee shall calculate the quantity of oranges which may be handled by each such person during such prorate period. The said quantity shall be the allotment of such person and shall be in an amount equivalent to the product of the prorate base of such person and the total quantity of oranges grown in such prorate district and fixed by the Secretary as the total quantity or oranges which may be handled during such prorate period. The committee shall give reasonable notice to each person of the allotment computed for such person pursuant to this part.

(b) *Marketing incentive allotments.* During any prorate period in which volume regulation is in effect, any handler may apply for marketing incentive allotment from the committee. This incentive increase is in addition to the allowance for overshipments provided for in § 907.55. The committee shall, with the approval of the Secretary, adopt rules and regulations to effectuate the provisions of this section, including the establishment of amounts of incentive allotment, the periods of time during which incentive allotment may be used and the filing of applications, reports and other information by handlers. Such rules and regulations may also provide for a deduction against the quantity of oranges which a handler has available for current shipment in the event that the handler fails to use all or a portion of the marketing incentive allotment issued or uses such marketing incentive allotment for other than the purposes specified and approved.

19. Section 907.55 is revised to read as follows:

§ 907.55 Overshipments.

During any period for which the Secretary has fixed the total quantity of oranges which may be handled, any person who has received an allotment for such prorate period as calculated under § 907.54(a), and whose total allotment is not loaned, or is not required for the repayment of an allotment loan or as a deduction for a prior overshipment, may handle in addition to such allotment an amount of such oranges equivalent to 20 percent of such allotment, or one carload, whichever is the greater: *Provided, however,* That the committee may, with the approval of the Secretary, reduce such 20 percent to a percentage not less than 10 percent: *And Provided further,* That, if subsequent to the determination of general maturity, allotment (other than short life allotment) is forfeited in any prorate district during any prorate period, such forfeiture shall be used to reduce the amount of maximum permissible overshipments made during such prorate period, unless the forfeiting handler shall have made a bona fide and timely offer to the committee to lend the handler's undershipment. Such forfeiture shall be first applied to handlers within such district in which the forfeiture occurred and second to qualified handlers in other districts. Allocation of forfeitures to handlers who have overshipped shall be made in proportion to, but not in excess of, the quantity overshipped by each such handler. In the case of short-life allotments, any forfeiture thereof shall be credited as above provided only against overshipment of allotments issued pursuant to § 907.54(a). However, no handler who has overshipped more than the maximum permissible under this section shall participate in the credits allowed by this provision. The quantity of oranges so handled in excess of each such person's allotment (but not exceeding an amount equivalent to the excess shipments permitted under this section) shall be deducted for each such person's allotment for the next prorate period: *Provided,* That no such deduction shall apply when such quantity is entirely reduced by application of forfeited allotment. If such person's allotment for such prorate period is in an amount less than the excess shipments permitted under this section, as reduced by the application of forfeited allotment, the remaining quantity shall be deducted from succeeding prorate period allotment issued to each such person until such excess has been entirely offset: *And*

Provided further, That no overshipment incurred during one season shall be deducted from allotments issued during the following season. The provisions of this section shall not apply to any person who, during any prorate period, has not received an allotment under this subpart for such prorate period. The committee, with the approval of the Secretary, shall adopt procedural rules and regulations to effectuate the provisions of this § 907.55.

20. Section 907.56 is revised to read as follows:

§ 907.56 Undershipments.

If any person handles during any week or longer prorate period a quantity of oranges, covered by a regulation issued pursuant to § 907.52, in an amount less than the allotment of oranges for such period, such person may handle, in addition to such person's allotment for the next two succeeding weeks only, a quantity of such oranges equivalent to such undershipment except that the undershipment of early maturity allotment shall not entitle a handler to so handle an additional quantity of oranges: *Provided,* That with the approval of the Secretary, the committee may increase or decrease the number of weeks or prorate periods over which undershipments of allotment may be carried forward.

21. Section 907.57 is amended by revising paragraph (c) to read as follows:

§ 907.57 Allotment loans.

(c) An allotment shall be loaned, pursuant to paragraph (a) of this section, for use only during the prorate period for which such allotment was issued. Persons securing repayment of an allotment loan may use such allotment only during the prorate period in which the repayment is made.

22. Section 907.59 is revised to read as follows:

§ 907.59 Priority of allotments.

During any prorate period in which a person received an allotment, pursuant to § 907.54, and has the right to handle a quantity of oranges in addition to the quantity represented by such allotment, by reason: (a) An undershipment of an allotment pursuant to § 907.56; or (b) the repayment of a loaned allotment pursuant to § 907.57; or (c) a borrowed allotment pursuant to § 907.57, and such person handles a quantity of oranges which is less than the total quantity of such oranges which such person may handle during such prorate period, the

amount of such oranges handled shall first apply to such person's current prorate period allotment (or to that portion which is not used pursuant to § 907.55 or § 907.57). The remaining amount, if any, shall be applied in the following order: second, to any undershipment of allotments, pursuant to § 907.56; third, to any allotment repaid to such person pursuant to § 907.57; fourth, to any allotment borrowed, pursuant to § 907.57.

23. Revise § 907.60 to read:

§ 907.60 Early maturity allotments.

Notwithstanding the provisions of § 907.54(a) the committee may, prior to the reaching of general maturity, issue special allotments for the handling of oranges of early maturity. Handlers controlling oranges of early maturity may apply to the committee for such allotments on forms prescribed by the committee and shall furnish to the committee such information as it may require. On the basis of all available information and after consideration of all of the factors enumerated in § 907.51(b) the committee shall determine the extent to which early maturity allotment shall be granted. Total early maturity allotments approved by the committee shall be allocated in an equitable manner among the requesting handlers who qualify therefor. Early maturity allotments issued to any handler may be used only during the prorate period for which issued, and the undershipment of any such allotment shall not entitle such handler to handle an additional quantity of oranges due to such undershipment. Upon the reaching of general maturity, the quantity of oranges available for current shipment of any handler who failed to use all of the early maturity allotments issued to such handler shall be adjusted by deducting therefrom an amount not exceeding twice the amount of unused early maturity allotment. Early maturity allotments are transferrable to other handlers who received early maturity allotments in the same prorate period: *Provided,* That transfers of early maturity allotments shall be made through the committee: *And Provided Further,* That upon such transfer of allotment, the transferee shall be obligated to use the transferred allotment during the prorate period for which it was issued and if such handler fails to do so shall have such handler's oranges available for current shipment adjusted in the same manner as if the transferred allotment had been issued to such handler committee. The committee shall, with the approval of the Secretary, adopt procedural rules and regulations

to effectuate the provisions of this part. Such rules and regulations may require that upon reaching general maturity, allotment issued for early maturity oranges shall be offset against the oranges available for current shipment of any handler and may provide for other appropriate modifications and adjustments necessary to carry out these provisions.

§ 907.61 [Amended]

24. Section 907.61 is amended by changing "§ 907.54" to "§ 907.54(a)" in the first sentence thereof.

§ 907.61a [Amended]

25. Section 907.61a is amended by changing "§ 907.54" to "§ 907.54(a)" in the first sentence thereof.

26. Section 907.64 is revised to read as follows:

§ 907.64 Issuance of size regulation.

Whenever the Secretary shall find, from the findings, recommendations, and information submitted by the committee, or from other available information, that to limit the handling of oranges by sizes would tend to effectuate the declared policy of the act, the Secretary shall fix the sizes of oranges grown in each such prorate district which may be handled during the specified period. When any such size regulations restricts the handling of a portion of a specified size, the quantity of such size that may be handled by a handler during a particular prorate period shall be established as a percentage of: (a) The allotment issued to such handler during the particular prorate period when volume regulation is in effect, and (b) the total weekly volume handled by such handler when volume regulation is not in effect. Any such regulation may provide that the handling of oranges shipped to Canada shall be subject to size regulation different from the size regulation applicable to the handling of other shipments of oranges. The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give adequate notice thereof to all handlers.

27. Section 907.67 is amended by revising the section to read as follows:

§ 907.67 Oranges not subject to regulation.

Except as otherwise provided in this section, nothing contained in this subpart shall be construed to authorize any limitation of the right of the initial handler of oranges to: (a) Handle oranges to charitable institutions for consumption by such institutions or to relieve agencies for distribution by such

agencies; (b) handle oranges to commercial processors for processing into products, including juice; (c) export oranges or handle oranges to exporters for export purposes; (d) handle oranges by parcel post or by railway express; or (e) handle oranges in such minimum quantities or in such types of shipments as the committee may, with the approval of the Secretary, prescribe. No assessment shall be levied pursuant to § 907.41 on oranges disposed of for the purposes specified in this section. The committee shall prescribe and periodically review, with the approval of the Secretary, such rules, regulations, and safeguards as it may deem necessary to prevent oranges shipped under the provisions of this section from entering into commercial channels of trade contrary to or in violation of this subpart.

28. Section 907.70 is revised to read as follows:

§ 907.70 Weekly report.

On or before such day of each week as may be designated by the committee, each person who first handles oranges shall report to the committee, in such manner as may be designated and on forms made available by it, the following information with respect to the total of all oranges disposed of by each such handler during the immediately preceding week: (a) The total quantity handled; (b) the total quantity disposed of for manufacture into by-products, showing the identity of each by-products processor involved and the quantity of each; (c) the total quantity disposed of for export, showing the destination and quantity of each such disposition; (d) the total quantity shipped for disposition to persons on relief, including quantity donated for charitable purposes, and shipments by parcel post or express, showing the destination and quantity of each such shipment; and (e) the total quantity disposed of otherwise, showing manner and quantity of each such disposition.

29. Section 907.71 is revised to read as follows:

§ 907.71 Manifest report.

Each person who first handles oranges shall furnish to the committee information regarding the size of oranges in each standard packed carton or its equivalent handled by such handler whether such shipments were destined to points in the United States and Alaska or to Canada and shall mail or deliver such information to said committee or its duly authorized representative within 24 hours after shipment is made in such manner as the

committee shall prescribe and upon forms prepared for it.

30. Add a new undesignated center heading "Records and Retention" following § 907.72 and a new § 907.73 to read:

§ 907.73 Reports.

(a) Each handler shall maintain such records which will clearly show the details of such handler's receipts and acquisition of oranges, sales, shipments, dispositions, inventories and such other specific information as prescribed by the committee and approved by the Secretary which will relate to the handling and disposition of oranges.

(b) All such records specified shall be retained by the handler for a period of three years following the end of the fiscal year in which such transactions occurred. If within the three-year period, the committee notifies the handler in writing that the retention of such records, or specified records, is necessary in connection with a proceeding under the Act, a court action, or a compliance investigation by the Secretary or the committee specified in such notice, the handlers shall retain such records, or specified records, until further written notification from the committee. The committee shall give further written notification to the handler when retention of the records is not longer necessary.

(c) Each handler shall make available to authorized representatives of the committee and the Secretary at any time during reasonable business hours all records provided for in this part for examination and audit, and shall permit access to all premises where records are maintained or stored and where oranges are received, stored, prepared for market, or handled. The committee shall make such checks of oranges or audits of handlers' records as it deems appropriate or which are requested by the Secretary to insure that accurate information as required in this part is being furnished by handlers.

(d) All reports and information submitted by handlers pursuant to the provisions of this part shall be received by and at all times be in the custody of one or more designated employees of the committee. Such employees shall not disclose to any person, other than the Secretary upon request therefor, data, or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided*, That such data and information may be combined, and made available in the form of general

reports in which the identities of the individual handlers furnishing the information is not disclosed.

31. Section 907.80 is revised to read as follows:

§ 907.80 Compliance.

Except as provided in this part, no person shall handle oranges during any prorate period in which a regulation issued by the Secretary pursuant to § 907.52 is in effect, unless such oranges are, or have been, handled pursuant to an allotment therefor, or unless such person is otherwise permitted to handle such oranges under the provisions of this part; and no person shall handle oranges except in conformity with the provisions of this part and the regulations issued under this part.

32. Section 907.83 is amended by revising paragraphs (c), (d) and (e) and adding a new paragraph (f) to read as follows:

§ 907.83 Termination.

(c)(1) The Secretary shall terminate the provisions of this subpart at the end of a crop year in which the secretary has found by referendum that such termination is favored by producers who, during a representative period determined by the Secretary, have been engaged in the production for market of oranges in the production area: *Provided*, That such termination shall be effective only if announced on or before September 15 of the then current fiscal year.

(2) To determine whether continuance is favored by producers, the required percentages set forth in the act with respect to producer approval of the issuance of marketing agreement and order regulating the handling of citrus fruits produced in any area producing what is known as California citrus fruits (approval by three-fourths of the producers who, during a representative period, determined by the Secretary, have been engaged, within the production area, in the production of navel oranges for market; or by producers who, during such representative period, have produced for market at least two-thirds of the volume of navel oranges produced within the production area for market) shall be used. In the event that a referendum is utilized to aid in making this determination, such required percentages for continuance shall be held to be complied with if, of the total number of producers, or the total volume of navel oranges produced for market, as the case may be, represented in such referendum, the percentage favoring

continuance is equal to or in excess of the percentage required.

(d) Upon recommendation of the committee, received not later than January 15 of an odd numbered year, the secretary shall conduct a referendum prior to March 15 of such year to ascertain whether continuance of this part is favored by growers as determined in accordance with (c)(2) of this section. The committee, with the approval of the secretary, shall adopt such rules and regulations as necessary to establish the basis for the recommendation provided for in this section.

(e) The Secretary shall conduct a referendum by August 1, of the sixth year following the effective date of this section and no later than August 1, every sixth year thereafter to find whether, in accordance with paragraph (c) of this section, continuance of the order is favored by producers.

(f) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

33. In § 908.11 the first sentence is revised to read as follows:

§ 908.11 Handle.

"Handle" means to buy, sell, consign, transport, or ship oranges (except as a common or contract carrier of oranges owned by another person), or in any other way to place oranges in the current of commerce, between the State of California and any point outside thereof in the continental United States or Canada, or within the State of California, or between the State of Arizona and any point outside thereof in the continental United States or Canada, or within the State of Arizona. * * *

34. Section 908.18 is revised to read as follows:

§ 908.18 Carload.

"Carload" means a quantity of oranges equivalent to 1,000 cartons of oranges, or such other quantity of oranges, as may be established by the committee with the approval of the Secretary.

35. Section 908.19 is revised to read as follows:

§ 908.19 Export.

"Export" means shipments of oranges to points outside the continental United States and Canada.

36. Section 908.20 is revised to read as follows:

§ 908.20 Establishment and membership.

There is hereby established a Valencia Orange Administrative Committee consisting of 11 members, for each of whom there shall be one alternate, and for each grower and handler member an additional alternate. Six of the members and their respective alternates shall be growers. Four of the members and their respective alternates shall be handlers, or employees of handlers, or employees of central marketing organizations. One member of the committee and an alternate of such member shall be selected as provided in § 908.23 and shall be referred to in this part as the "public" member of the committee. The six members of the committee who shall be growers are referred to in this part as "grower" members of the committee and the four members who shall be handlers, or employees of handlers, or employees of central marketing organizations are referred to in this part as "handler" members of the committee.

37. Section 908.21 is revised to read as follows:

§ 908.21 Term of office.

The term of office of each member an alternate member of the committee shall be for a period of two years, and such terms shall begin on February 1 of each even-numbered year: *Provided*, That such members and alternates shall serve in such capacities for the portion of the term of office for which they are selected and qualify and until their respective successors are selected and have qualified. The consecutive terms of office of members, not including alternate members or additional alternate members, shall be limited to three terms, beginning with terms starting February 1, 1980, and any person is eligible to serve on the committee as a member if such person has not served during the preceding two years. Members of the committee who have served three consecutive two-year terms as of February 1, 1986, are not eligible to serve on the committee in a member position until February 1, 1988.

38. Section 908.22 is amended by revising paragraphs (a) and (b), (c), (d), (e), and (f) and adding new paragraph (g) to read:

§ 908.22 Nominations.

(a) With respect to paragraphs (b) and (c) of this section, the time and manner of nominating members, alternate members, and additional alternate members of the committee shall be prescribed by the Secretary. With respect to paragraph (d) of this section, the committee, with the approval of the

Secretary, shall adopt procedural rules and regulations to be observed for: (1) The selection of candidates for member, alternate member, and additional alternate member nominations, and (2) the conducting of such nominations by mail balloting.

(b) Any cooperative marketing organization, or the growers affiliated therewith, which handled more than 50 percent of the total volume of oranges during the marketing year in which nominations for members and alternate members of the committee are submitted shall nominate no more than three grower members, three alternate grower members, three additional alternate grower members, two handler members and two additional alternate handler members of the committee. In the event that no cooperative marketing organization handled more than 50 percent of the total volume of oranges handled during the marketing year in which nominations for members and alternate members of the committee are submitted, committee representation shall be reallocated in accordance with § 908.29(n) of this part.

(c) All cooperative marketing organizations which are not qualified under paragraph (b) of this section, or the growers affiliated therewith, shall nominate one grower member, one alternate grower member, one additional alternate grower member, one handler member, one alternate handler member, and one additional alternate handler member.

(d) All growers which are not qualified under paragraphs (b) and (c) of this section shall nominate two grower members, two alternate grower members, two additional alternate grower members, one handler member, one alternate handler member, and one additional alternate handler member of the committee.

(e) When voting for nominees, each grower shall be entitled to cast one vote which shall be cast on behalf of such grower, the growers' agents, subsidiaries, affiliates, and representatives.

(f) The public member and an alternate public member of the committee shall be selected by the Secretary pursuant to § 908.23 and shall not be growers or handlers, or employees, agents, or representatives of growers or handlers (other than a charitable or educational institution which is a grower or handler), or of a central marketing organization.

(g) Grower and handler member, alternate member and additional alternate member positions may be

allocated pursuant to § 908.29(n) of this part.

39. Section 908.23 is revised to read as follows:

§ 908.23 Selection.

From the nominations made pursuant to § 908.22(b) or from other qualified growers and handlers, the Secretary shall select three grower members and two handler members of the committee, an alternate and an additional alternate to each such member. From the nominations made pursuant to § 908.22(c) or from other qualified growers and handlers the Secretary shall select one grower member of the committee, an alternate and an additional alternate to such grower member; also one handler member, an alternate and an additional alternate to such handler member. From the nominations made pursuant to § 908.22(d) or from other qualified growers and handlers the Secretary shall select two grower members of the committee, an alternate and an additional alternate to each such grower members; also one handler member of committee, an alternate and an additional alternate to such handler member. The Secretary shall select one public member and one alternate public member of the committee.

40. Section 908.29 is amended by revising paragraph (n) to read as follows. The introductory text is shown for the convenience of the reader.

§ 908.29 Duties.

The committee shall have the following duties:

(n) With the approval of the Secretary, to reapportion the number of grower members or handler members on the Valencia Orange Administrative Committee who are nominated pursuant to § 908.22 (b), (c), and (d). Any such reapportionment shall be allocated in the following manner: (1) Any cooperative which handled 50 percent or less, but more than 40 percent of the total quantity of oranges handled in fresh domestic channels, shall be entitled to two grower members, two handler members, their respective alternates and additional alternates; (2) any cooperative which handled 40 percent or less, but more than 30 percent of the total quantity of oranges handled in fresh domestic channels shall be entitled to two grower members, one handler member, their respective alternates and additional alternates; (3) any reapportionment based on § 907.29(n) (1) or (2) shall be allocated proportionately to either or both groups

which have the greatest increase in oranges handled in fresh domestic channels; and (4) should no cooperative marketing organization handle more than 30 percent of the total quantity of oranges handled in fresh domestic channels, then all positions on the committee shall be nominated by mail ballot without regard to affiliation. *Provided*, That any reapportionment of membership would provide that no grower group could nominate more than five members regardless of the volume handled and each grower group would be entitled to nominate at least one grower member provided that such group handled at least five percent of the volume handled.

41. Section 908.30 is amended by revising paragraph (a) to read as follows:

§ 908.30 Procedure.

(a) Seven members of the committee shall constitute a quorum; and any action of the committee shall require at least seven concurring votes.

Section 908.31 is revised to read as follows:

§ 908.31 Expenses and compensation.

The members and alternates of the committee shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part. Grower and handler members and alternates shall receive compensation at a rate to be recommended by the committee and approved by the Secretary which rate shall not exceed \$100 per day or portion thereof spent in performing such duties. The public member and alternate shall receive compensation at a rate to be recommended by the committee and approved by the Secretary which rate may be greater than \$100, but shall not exceed \$250 per day or portion thereof spent in performing such duties.

42. Section 908.33 is revised to read as follows:

§ 908.33 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of Valencia oranges. Such projects may provide for any form of marketing promotion including paid advertising. The expense of such projects shall be paid from funds collected pursuant to this part.

43. A new § 908.34 is added to read as follows:

§ 908.34 Consumer affairs advisors.

The committee may appoint such consumer affairs advisors as it deems appropriate and determine the compensation and define the duties of such advisors.

44. Add a new paragraph (d) to § 908.41 to read:

§ 908.41 Assessments.

(d) Assessments not paid within a period of time prescribed by the committee may be made subject to interest or late payment charges, or both. The period of time, rate of interest, and late payment charge shall be as recommended by the committee and approved by the Secretary: *Provided*, That when interest or late payment charges are in effect, they shall be applied to all assessments not paid within the prescribed period of time.

45. Section 908.50 is amended by redesignating paragraph (a)(7) as (a)(8) and adding a new paragraph (a)(7) to read:

§ 908.50 Marketing policy.

(a) Prior to the recommendation for regulation for each prorate district, the committee shall submit to the Secretary its marketing policy for the ensuing season. Such marketing policy shall contain the following information: (1) The available crop of oranges in the prorate district, including estimate quality and composition of sizes; (2) the estimate utilization of the crop, showing the quantity and percentages of the crop that will be marketed in domestic, export, and by-product channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated shipments to be recommended to the Secretary during the ensuing season; (4) available supplies of competitive oranges in all producing areas of the United States; (5) level and trend of consumer income; (6) estimates supplies of competitive citrus commodities; (7) an evaluation and recommendation concerning the onset and duration of prorate, the length of prorate periods, and size regulation; and (8) any other pertinent factors bearing on the marketing of oranges. In the event that it becomes advisable substantially to modify such marketing policy, the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this paragraph.

46. Section 908.51 is amended by revising paragraphs (a) and (c) to read as follows:

§ 908.51 Recommendations for volume regulation.

(a) The committee may recommend to the Secretary the total quantity of oranges which it deems advisable to the handled during the next succeeding prorate period in each prorate district: *Provided*, That the committee may establish a limitation on the maximum number of prorate periods during a season and the beginning and ending dates for such periods. If, for any reason, the committee recommends the issuance of volume regulation but fails to recommend to the Secretary the total quantity of oranges which it deems advisable to be handled during the next succeeding prorate period in each prorate district, views of the committee members with respect to its failure to act shall be submitted promptly to the Secretary.

(c) At any time prior to or during the prorate period for which the Secretary, pursuant to § 908.52, has fixed the quantity of oranges which may be handled, the committee may, if such action is deemed advisable, recommend to the Secretary that such quantity be increased for such prorate period. Any such recommendation, together with the committee's reasons for such recommendation, shall be submitted promptly to the Secretary.

47. Section 908.52 is revised to read as follows:

§ 908.52 Issuance of volume regulations.

Whenever the Secretary shall find, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of oranges which may be handled in each prorate district during a specified prorate period will tend to effectuate the declared policy of the act, the Secretary shall fix such quantity. Such regulation may be made effective, as authorized by the act, irrespective of whether the season average price for Valencia oranges is in excess of the parity price specified therefor in the act. The quantity so fixed may be increased by the Secretary at any time prior to or during such period.

48. Section § 908.53 is amended by revising paragraphs (b), (c), (f), (g) and (h) and adding new paragraph (i) as follows:

§ 908.53 Prorate bases.

(b) Such application shall be substantiated in such manner and shall be supported by such evidence as the committee may require, and shall include at least: (1) The name and

address of the producer or duly authorized agent, if any, for each grove or portion thereof, the fruit of which is included in the quantity of oranges available for current shipment by the applicant; (2) an accurate description of the location of each such grove or portion thereof, including the number of acres contained therein; (3) an estimate of the total quantity of oranges available for current shipment in terms of a unit of measure designated by the committee, contained in each grove or portion thereof described in paragraph (b)(2) of this section; and (4) an estimate of the total quantity of oranges available for current shipment by the applicant in terms of a unit of measure designated by the committee. If at the time of filing of an application under this section the committee finds that there is an error, omission, inaccuracy or inadequacy in such application, or that any estimates contained in such application are not reasonably calculated to apprise the committee of the information required by this section, it shall return the application to the applicant for correction or completion. Applicants may resubmit applications to the committee for its consideration at any subsequent time.

(c) Each application shall include a certification by the handler that the handler has control, for all purposes relating to this part, of the oranges described in the application.

(f) When any person having a prorate base has remaining a quantity smaller than such person's allotment, such person shall be removed from the prorate base or that prorate base shall be reduced so that the allotment based thereon shall not exceed the quantity of oranges remaining under such handler's control: *Provided*, That such handler shall receive due allotment to the extent necessary to pay back loans which the handler is obligated to repay in any prorate period that repayment of loans may be due.

(g) The committee shall determine the accuracy of the information submitted pursuant to this section. Except as provided in (b) of this section, whenever the committee finds that there is an error, omission, inaccuracy or inadequacy in any such information, it shall correct the same after granting the person who submitted such report a reasonable opportunity to discuss with the committee the factors considered in making the correction. If it is determined that an error, omission, or inaccuracy has resulted in the establishment of a smaller or a larger quantity of oranges available for current shipment than that

to which a person was entitled under this part, such quantity shall be increased or decreased, over such period as may be determined by the committee, by an amount necessary to correct the error, omission, inaccuracy or inadequacy.

(h) During any prorate period when volume regulation is likely to be recommended, the committee shall compute, with respect to each prorate district, the total quantity of oranges available for current shipment by each person who has applied for a prorate base and for allotments, except as provided in paragraph (b) of this section. On the basis of such computation, the committee shall fix a prorate base for each person who is entitled thereto. Such prorate base shall represent the ratio between the total quantity of oranges available for current shipment in the particular prorate district by each applicant and the total quantity of oranges available for current shipment in such district by all such applicants. The committee shall notify the Secretary of the prorate base fixed for each person and shall notify each such person of the prorate base so fixed.

(i) The committee shall, with the approval of Secretary, adopt procedural rules and regulations to effectuate the provisions of this § 908.53.

49. Section 908.54 is revised by adding a new heading to the existing paragraph and designating that paragraph as paragraph (a), and adding a new paragraph (b) to read as follows:

§ 908.54 Allotments.

(a) *General maturity allotments.* Whenever the Secretary has fixed the quantity of oranges which may be handled during any prorate period in a prorate district, the committee shall calculate the quantity of oranges which may be handled by each person during such prorate period. The said quantity shall be the allotment of such person and shall be an amount equivalent to the product of the prorate base of such person and the total quantity of oranges grown in such prorate district and fixed by the Secretary as the total quantity of oranges which may be handled during such prorate period. The committee shall give reasonable notice to each person of the allotment computed for such person pursuant to this part.

(b) *Marketing incentive allotments.* During any prorate period in which volume regulation is in effect, any handler may apply for marketing incentive allotment from the committee. This incentive increase is in addition to the allowance for overshipments provided for in § 908.55. The committee shall, with the approval of the Secretary,

adopt rules and regulations to effectuate the provisions of this section, including the establishment of amounts of incentive allotment, the periods of time during which incentive allotment may be used and the filing of applications, reports and other information by handlers. Such rules and regulations may also provide for a deduction against the quantity of oranges which a handler has available for current shipment in the event that the handler fails to use all or a portion of the marketing incentive allotment issued or uses such marketing incentives allotment for other than the purposes specified and approved.

50. Section 908.55 is revised to read as follows:

§ 908.55 Overshipments.

During any period for which the Secretary has fixed the total quantity of oranges which may be handled, any person who has received an allotment for such prorate period as calculated under § 908.54(a), and whose total allotment is not loaned, or is not required for the repayment of an allotment loan or as a deduction for a prior overshipment, may handle in addition to such allotment an amount of such oranges equivalent to 20 percent of such allotment, or one carload, whichever is the greater: *Provided, however,* That the committee may, with the approval of the Secretary, reduce such 20 percent to a percentage not less than 10 percent: *And Provided further,* That, if subsequent to the determination of general maturity, allotment (other than short life allotment) is forfeited in any prorate district during any prorate period, such forfeiture shall be used to reduce the amount of maximum permissible overshipments made during such prorate period, unless the forfeiting handler shall have made a bona fide and timely offer to the committee to lend the handler's undershipment. Such forfeiture shall be first applied to handlers within such district in which the forfeiture occurred and second to qualified handlers in other districts. Allocation of forfeitures to handlers who have overshipped shall be made in proportion to, but not in excess of, the quantity overshipped by each such handler. In the case of short-life allotments, any forfeiture thereof shall be credited as above provided only against overshipment of allotment issued pursuant to § 908.54(a). However, no handler who has overshipped more than the maximum permissible under this section shall participate in the credits allowed by this provision. The quantity of oranges so handled in excess of each such person's allotment (but not

exceeding an amount equivalent to the excess shipments permitted under this section) shall be deducted from each such person's allotment for the next prorate period: *Provided,* That no such deduction shall apply when such quantity is entirely reduced by application of forfeited allotment. If such person's allotment for such prorate period is in an amount less than the excess shipments permitted under this section, as reduced by the application of forfeited allotment, the remaining quantity shall be deducted from succeeding prorate period allotment issued to each such person until such excess has been entirely offset: *And Provided further,* That no overshipment incurred during one season shall be deducted from allotments issued during the following season. The provisions of this section shall not apply to any person who, during any prorate period, has not received an allotment under this subpart for such prorate period. The committee, with the approval of the Secretary, shall adopt procedural rules and regulations of effectuate the provisions of this § 908.55.

51. Section 908.56 is revised to read as follows:

§ 908.56 Undershipments.

If any person handles during any week or longer prorate period a quantity of oranges, covered by a regulation issued pursuant to § 908.52, in an amount less than the allotment of oranges for such period, such person may handle, in addition to such person's allotment for the next two succeeding weeks only, a quantity of such oranges equivalent to such undershipment except that the undershipment of early maturity allotment shall not entitle a handler to so handle an additional quantity of oranges: *Provided,* That with the approval of the Secretary, the committee may increase or decrease the number of weeks or prorate periods over which undershipments of allotment may be carried forward.

52. Section 908.57 is amended by revising paragraph (c) to read as follows:

§ 908.57 Allotment loans.

(c) An allotment shall be loaned, pursuant to paragraph (a) of this section, for use only during the prorate period for which such allotment was issued. Persons securing repayment of an allotment loan may use such allotment only during the prorate period in which the repayment is made.

53. Section 908.59 is revised to read as follows:

§ 908.59 Priority of allotments.

During any prorate period in which a person received an allotment, pursuant to § 908.54, and has the right to handle a quantity of oranges in addition to the quantity represented by such allotment, by reason of: (a) An undershipment of an allotment pursuant to § 908.56; or (b) the repayment of a loaned allotment pursuant to § 908.57; or (c) a borrowed allotment pursuant to § 908.57, and such person handles a quantity of oranges which is less than the total quantity of such oranges which such person may handle during such prorate period, the amount of such oranges handled shall first apply to such person's current prorate period allotment (or to that portion which is not used pursuant to § 908.55 or § 908.57). The remaining amount, if any, shall be applied in the following order: Second, to any undershipment of allotments, pursuant to § 908.56; third, to any allotment repaid to such person pursuant to § 908.57; fourth, to any allotment borrowed, pursuant to § 908.57.

54. Revise § 908.60 to read:

§ 908.60 Early maturity allotments.

Notwithstanding the provisions of § 908.54(a) the committee may, prior to the reaching of general maturity, issue special allotments for the handling of oranges of early maturity. Handlers controlling oranges of early maturity may apply to the committee for such allotments on forms prescribed by the committee and shall furnish to the committee such information as it may require. On the basis of all available information and after consideration of all of the factors enumerated in § 908.51(b) the committee shall determine the extent to which early maturity allotment shall be granted. Total early maturity allotments approved by the committee shall be allocated in an equitable manner among the requesting handlers who qualify therefor. Early maturity allotments issued to any handlers may be used only during the prorate period for which issued, and the undershipment of any such allotment shall not entitle such handler to handle an additional quantity of oranges due to such undershipment. Upon the reaching of general maturity, the quantity of oranges available for current shipment of any handler who failed to use all of the early maturity allotments issued to such handler shall be adjusted by deducting therefrom an amount not exceeding twice the amount of unused early maturity allotment.

Early maturity allotments are transferrable to other handlers who received early maturity allotments in the same prorate period, except that the undershipment of early maturity allotment shall not entitle a handler to so handle a additional quantity of oranges: *Provided*, That transfers of early maturity allotments shall be made through the committee: *And Provided Further*, That, upon such transfer of allotment, the transferee shall be obligated to use the transferred allotment during the prorate period for which it was issued and if such handler fails to do so shall have such handler's orange available for current shipment adjusted in the same manner as if the transferred allotment had been issued to such handler by the committee. The committee shall, with the approval of the Secretary, adopt procedural rules and regulations to effectuate the provisions of this part. Such rules and regulations may require that upon reaching general maturity, allotment issued for early maturity oranges shall be offset against the oranges available for current shipment of any handler and may provide for other appropriate modifications and adjustments necessary to carry out these provisions.

§ 908.61 [Amended]

55. Section 908.61 is amended by changing "§ 908.54" to "§ 908.54(a)" in the first sentence thereof.

§ 908.61a [Amended]

56. Section 908.61a is amended by changing "§ 908.54" to "§ 908.54(a)" in the first sentence thereof.

57. Section 908.64 is revised to read as follows:

§ 908.64 Issuance of size regulation.

Whenever the Secretary shall find, from the findings, recommendations, and information submitted by the committee, or from other available information, that to limit the handling of oranges by sizes would tend to effectuate the declared policy of the act, the Secretary shall fix the sizes of oranges grown each such prorate district which may be handled during the specified period. When any such size regulation restricts the handling of a portion of a specified size, the quantity of such size that may be handled by a handler during a particular prorate period shall be established as a percentage of: (a) The allotment issued to such handler during the particular prorate period when volume regulation is in effect, and (b) the total weekly volume handled by such handler when volume regulation is not in effect. Any such regulation may provide that the

handling of oranges shipped to Canada shall be subject to size regulation different from the size regulation applicable to the handling of other shipments of oranges. The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give adequate notice thereof to all handlers.

58. Section 908.67 is amended by revising the section to read as follows:

§ 908.67 Oranges not subject to regulation.

Except as otherwise provided in this section, nothing contained in this subpart shall be construed to authorize any limitation of the right of the initial handler of oranges to: (a) Handle oranges of charitable institutions for consumption by such institutions or to relief agencies for distribution by such agencies; (b) handle oranges to commercial processors for processing into products, including juice; (c) export oranges or handle oranges to exporters for export purposes; (d) handle oranges by parcel post or by railway express; or (e) handle oranges in such minimum quantities or in such types of shipments as the committee may, with the approval of the Secretary, prescribe. No assessment shall be levied pursuant to § 908.41 on oranges disposed of for the purposes specified in this section. The committee shall prescribe and periodically review, with the approval of the Secretary, such rules, regulations, and safeguards as it may deem necessary to prevent oranges shipped under the provisions of this section from entering into commercial channels of trade contrary to or in violation of this subpart.

59. Section 908.70 is revised to read as follows:

§ 908.70 Weekly report.

On or before such day of each week may be designated by the committee, each person who first handles oranges shall report to the committee, in such manner as may be designated and on forms made available by it, the following information with respect to the total of all oranges disposed of by each such handler during the immediately preceding week: (a) The total quantity handled; (b) the total quantity disposed of for manufacture into by-products, showing the identity of each by-products processor involved and the quantity of each; (c) the total quantity disposed of for export, showing the destination and quantity of each such disposition; (d) the total quantity shipped for disposition to persons on

relief, including quantity donated for charitable purposes, and shipments by parcel post or express, showing the destination and quantity of each such shipment; and (e) the total quantity disposed of otherwise, showing manner and quantity of each such disposition.

60. Section 908.71 is revised to read as follows:

§ 908.71 Manifest report.

Each person who first handles oranges shall furnish to the committee information regarding the size of oranges in each standard packed carton or its equivalent handled by such handler whether such shipments were destined to points in the United States and Alaska or to Canada and shall mail or deliver such information to said committee or its duly authorized representative within 24 hours after shipment is made in such manner as the committee shall prescribe and upon forms prepared by it.

61. Add a new undesignated center heading "Records and Retention" following § 908.72 and a new § 908.73 to read:

§ 908.73 Reports.

(a) Each handler shall maintain such records which will clearly show the details of such handler's receipts and acquisition of oranges, sales, shipments, dispositions, inventories and such other specific information as prescribed by the committee and approved by the Secretary which will relate to the handling and disposition of oranges.

(b) All such records specified shall be retained by the handler for a period of three years following the end of the fiscal year in which such transactions occurred. If within the three-year period, the committee notifies the handler in writing that the retention of such records, or specified records, is necessary in connection with a proceeding under the act, a court action, or a compliance investigation by the Secretary or the committee specified in such notice, the handlers shall retain such records, or specified records, until further written notification from the committee. The committee shall give further written notification to the handler when retention of the records is no longer necessary.

(c) Each handler shall make available to authorized representatives of the committee and the Secretary at any time during reasonable business hours all records provided for in this part for examination and audit, and shall permit access to all premises where records are maintained or stored and where oranges

are received, stored, prepared for market, or handled. The committee shall make such checks of oranges or audits of handlers' records as it deems appropriate or which are requested by the Secretary to insure that accurate information as required in this part is being furnished by handlers.

(d) All reports and information submitted by handlers pursuant to the provisions of this part shall be received by and at all times be in the custody of one or more designated employees of the committee. Such employees shall not disclose to any person, other than the Secretary upon request therefor, data, or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided*, That such data and information may be combined, and made available in the form of general reports in which the identities of the individual handlers furnishing the information is not disclosed.

62. Section 908.80 is revised to read as follows:

§ 908.80 Compliance.

Except as provided in this part, no person shall handle oranges during any prorate period in which a regulation issued by the Secretary pursuant to § 908.52 is in effect, unless such oranges are, or have been, handled pursuant to an allotment therefor, or unless such person is otherwise permitted to handle such oranges under the provisions of this part; and no person shall handle oranges except in conformity with the provisions of this part and the regulations issued under this part.

63. Section 908.83 is amended by revising paragraphs (c), (d) and (e) and adding a new paragraph (f) to read as follows:

§ 908.83 Termination.

(c)(1) The Secretary shall terminate the provisions of this subpart at the end of a crop year in which the Secretary has found by referendum that such termination is favored by producers who, during a representative period determined by the Secretary, have been engaged in the production for market of oranges in the production area: *Provided*, That such termination shall be effective only if announced on or before December 1 of the then current fiscal year.

(2) To determine whether continuance is favored by producers, the required

percentages set forth in the act with respect to producer approval of the issuance of a marketing agreement and order regulating the handling of citrus fruits produced in any area producing what is known as California citrus fruits (approval by three-fourths of the producers who, during a representative period, determined by the Secretary, have been engaged, within the production area, in the production of Valencia oranges for market; or by producers who, during such representative period, have produced for market at least two-thirds of the volume of Valencia oranges produced within the production area for market) shall be used. In the event that a referendum is utilized to aid in making this determination, such required percentages for continuance shall be held to be complied with if, of the total number of producers, or the total volume of Valencia oranges produced for market, as the case may be, represented in such referendum, the percentage favoring continuance is equal to or in excess of the percentage required.

(d) Upon recommendation of the committee, received not later than August 15 of an odd numbered year, the Secretary shall conduct a referendum prior to October 15 of such year to ascertain whether continuance of this part is favored by growers as determined in accordance with (c)(2) of this section. The committee, with the approval of the Secretary, shall adopt such rules and regulations as necessary to establish the basis for the recommendation provided for in this section.

(e) The Secretary shall conduct a referendum by October 15, of the sixth year following the effective date of this section and no later than October 15, every sixth year thereafter to find whether, in accordance with paragraph (c) of this section, continuance of the order is favored by producers.

(f) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

Dated: April 5, 1984.

Vern F. Highley,
Administrator, Agricultural Marketing
Service.

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BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

18 CFR Part 35

[Docket No. RM84-9-000]

Calculation of Cash Working Capital
Allowance for Electric Utilities;
Proposed Rulemaking

Issued: April 5, 1984.

AGENCY: Federal Energy Regulatory
Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations by the addition of a new § 35.24 which would provide that the cash working capital requirements of any public utility that files any electric rate schedule under the Federal Power Act will be presumed to be zero dollars, unless it is demonstrated that the overall time difference between the average date of payment of certain current operating expenses by that utility and the average date of receipt of revenues for services to ratepayers is significant. A significant demonstrated time difference would result either in an addition to rate base to permit a return on working cash required to be kept on hand by the utility or a reduction in rate base to account for revenues received by the utility prior to paying related expenses. Any adjustment to rate base requested by any participant in a rate case must be supported by a fully developed and reliable study.

Proposed § 35.24 would prescribe the expense elements to be considered in calculating cash working capital adjustments to rate base and other criteria applicable to studies submitted in support of any request for an adjustment. The proposed rule would also establish a threshold standard that must be met to support a cash working capital adjustment. Conforming amendments are also proposed for the filing requirements in § 35.13.

The proposed rule is intended to promote accurate, cost-based ratemaking by establishing a presumption of cash working capital requirements generally reflective of utility industry experience. The proposed rule is also intended to reduce the burdens on ratemaking participants, including the Commission, currently caused by litigation of the cash working capital issue.

In a related order, published elsewhere in this issue, the Commission is also terminating a previous proposed

rulemaking on cash working capital (44 FR 33410, June 11, 1979) that is replaced by this proceeding.

DATE: Written comments on the proposed rule must be received on or before June 4, 1984.

ADDRESS: Written comments must be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should refer to Docket No. RM84-9-000. An original and fourteen copies must be filed.

FOR FURTHER INFORMATION CONTACT: Jack O. Kendall, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:**I. Introduction**

The Federal Energy Regulatory Commission (Commission) is proposing to add a new § 35.24 to its regulations under Part II of the Federal Power Act (FPA).¹ The new section would provide, first, that the cash working capital requirements of any public utility that files any electric rate schedule under the FPA will be presumed to be zero dollars. As a result, a filing utility will not receive an adjustment to rate base representing the utility's cash working capital requirements, unless it is demonstrated that the overall time difference between the average date of payment of certain current operating expenses by that utility and the average date of receipt of revenues for services to ratepayers is significant. A significant demonstrated "lag" in revenue collection in relation to the lag in the payment of expenses would result in an addition to rate base to provide a return on the working cash required to be kept on hand. Conversely, a significant demonstrated lag in the payment of expenses relative to the lag in receipt of revenues (typically referred to as a revenue "lead") would be subtracted from rate base. Any such adjustment to rate base must be supported by a fully-developed and reliable study, whether filed by the utility, a wholesale customer, or other participant in the rate case.

Proposed § 35.24 would prescribe the expense elements considered in calculating cash working capital adjustments to rate base, the threshold standard to support a cash working capital adjustment, and the nature of the studies that may be submitted in support of, or in opposition to, any request for a cash working capital adjustment to rate base. Conforming amendments are also

proposed for the filing requirements in § 35.13.

The proposed rule is intended to provide a presumption of cash working capital requirements that more clearly reflects utility practice. To that end, the objective of the rule is accurate, cost-based ratemaking. The Commission also wishes to remove the cash working capital issue from electric rate litigation in as many cases as possible. It anticipates that the proposed rule could reduce the burdens on the parties and the resources of the Commission that litigation of this issue tends to produce.

Comments are requested on alternatives or modifications to the approach proposed.

In a related order, the Commission is also terminating a previous proposed rulemaking on cash working capital that is replaced by this proceeding.

II. Background**A. Commission Practice**

Cash working capital, as it relates to wholesale electric rates, is the term that historically has referred to the amount of cash needed on hand by a public utility to pay its day-to-day operating expenses for the time period during which the utility has provided electric service to its customers and has not yet been fully paid for the service. If, on the average, the time difference between the provision of service and the collection of revenue for that service exceeds the time difference between the rendition of service, and the payment of expenses incurred to render that service, the utility is experiencing a "net revenue receipt lag" that necessitates having cash on hand. On the other hand, if the lag in the payment of expenses is longer than the lag in collecting revenues, there is a "net expense payment lag," meaning that the collection of revenues occurs in advance of paying expenses.

The Commission historically has allowed a utility to include in rate base the dollar amount of borrowed or investor-supplied working cash required to compensate for net lags in receiving revenue. This permits the utility, and thus its investors, to earn a return on the working cash used by the utility to pay expenses before corresponding revenues have been received from the utility's customers. The term describing the permissible net addition to rate base to reflect borrowed or investor-supplied working cash is the cash working capital allowance. The average amount of unrecovered expenses at any given time can nevertheless be difficult to determine. The difficulty arises because expenses are paid, service rendered,

¹ 16 U.S.C. 791a-828c (1976 and Supp. V 1981).

and revenues collected throughout the year, but a company may receive revenues to cover expenses and services before or after paying the expenses.

The Commission historically has permitted the cash working capital allowance to be calculated in accordance with some form of the "45-day convention."² Under this policy, the time that elapses between the expenditure of a borrowed or investor-supplied dollar to pay for current operating expenses and the recovery of that dollar in consumers' payments for services has been presumed to average one-eighth of a year, or 45 days. Accordingly, the convention permits a utility generally to include in rate base a cash working capital allowance equal to one-eighth of its annual operation and maintenance expenses minus purchased power expenses.³

This Commission's predecessor, the Federal Power Commission, set forth the rationale for the 45-day convention as follows:

Electric energy furnished by the company during the current month is billed to the customer as of the first of the succeeding month with a fifteen-day discount period. The full period between the dates of rendition of service and the payment has been adopted as the period of lag and the working capital required for this period (exclusive of fuel and other supplies) was determined to be 45/365 of operating costs, * * *.⁴

Proponents of the 45-day convention argue that when uncontested, it is inexpensive to compute and easy to apply in electric rate cases. This convention may nevertheless be anomalous in certain respects. Although modified since its inception, there exists considerable doubt whether the 45-day convention reflects the experiences or practices of utilities generally. Consequently, cash working capital allowances determined solely in accord with the convention may exaggerate the actual needs of utilities, to the detriment of utility customers.

If cash working capital allowances do not reflect utility needs, rates may have unintended effects on utility management behavior. For example, if utility stockholders receive an allowance in excess of a utility's actual cash working capital needs, as may result from application of the currently-used 45-day conventions, the utility's incentives to minimize costs are reduced. The return on working cash amounts that may be overstated provides a cushion which reduces the penalty a utility might otherwise suffer for incurring excessive costs, once customer rates have been established. With the excessive return as a cushion, a utility may still be able to earn its allowed return while unnecessarily incurring extra costs, or it may retain the money as extra profit above its allowed return.

As a result of the variations in utility experiences with the payment and recoupment of operating expenses, the Commission has traditionally allowed any participant in a ratemaking proceeding to file a study to establish a cash working capital allowance on the basis of a utility's actual leads and lags in revenue collections for all major operating expenses.⁵ In addition, recognizing several limitations of the 45-day convention, it has been Commission practice to provide for adjustments in applying the 45-day convention, in the absence of a reliable lead-lag study and provided appropriate information is available.⁶ Under this "modified 45-day convention", when actual lags in fossil fuel payments are known, they have been substituted for the results otherwise obtained for that expense item using the 45-day convention. In addition, if such an adjustment is made for fuel cost lags, a further adjustment is performed to reflect the lag in payment of purchased power expenses. In the past, a utility was thought generally to pay for purchased power at about the same that it, in turn, received payment for the resale of the power and purchased-power-related expenses were therefore not included in cash working

capital computations under the original 45-day convention. Because of this historic assumption and practice, any actual purchase power lag represents a working cash need in addition to calculations under the 45 convention.

The modified 45-day convention generally results in a somewhat more accurate assessment of cash working capital needs. It nevertheless shares the weaknesses of the original application of the 45-day convention. Cash working capital requirements can still be significantly overstated and several important expense items, notably taxes, are routinely not accounted for. Parties still invest resources in lead-lag studies and, while a fully-developed and reliable lead-lag study is the most accurate method of determining the working cash needs of a particular utility, such a study tends to be a costly use of company, customer, and Commission resources, relative to the dollars typically involved in a decision. Customarily, thousands of vouchers and invoices are reviewed in compiling the expense components of a study. Finally, all refinements of the 45-day convention share the same fundamental flaw: it has never been conclusively decided which operating expenses ought to be taken into account in establishing an allowance, although certain expenses have been disallowed in Commission rate opinions.

The Commission believes that any inadequacies and inaccuracies created by the existing convention enhance the likelihood that more lead-lag studies will be prepared in ratemaking proceedings. The Commission would like to avoid the use of these studies when possible because preparation and review of the studies create a significant drain on the resources of those involved in the proceeding.

The commenters on the previous Commission proposal to reform cash working capital ratemaking practices informed the Commission that the cost of developing a complete lead-lag study to ascertain the exact working cash needs of a utility for a specific period, is between \$30,000 and \$50,000. Because the methods used in these studies are not themselves beyond dispute, there continues to be protracted litigation that costs the parties and the Commission even more time and expense. The costs to a utility of litigating the issue or of developing studies are includable in rates. For customers that develop lead-lag studies to rebut claimed working cash allowances, the related expenses must be absorbed directly.

² This method of approximating utility cash working capital needs was first enunciated in Interstate Power Company, 2 F.P.C. 71 (1939).

³ Purchased power expenses have historically been excluded from the allowance under the assumption that the lag by a utility in paying for purchased power usually was approximately equal to the lag in the receipt by a utility of revenue in turn from its customers. This assumption was based on the two types of transactions, i.e., a utility's purchase of power or its wholesale sale of it, being similar and interrelated. However, more recently a utility's payment for purchased power has no longer been assumed in ratemaking proceedings to necessarily coincide with the utility's receipt of compensating revenue. See Opinion 19-A *infra*, note 6.

⁴ Interstate, *supra* note 2, at 85.

⁵ Such a study, frequently called a "lead-lag" study, computes the overall net time difference between the time, on average, when a utility pays its expenses of rendering service and the average time when it receives revenues in payment for the same service. This determination as to whether the utility's receipt of revenues, overall, generally leads or lags behind its payment of expenses is determined by netting the lags and leads of the utility's various kinds of day-to-day operating expenses in relation to revenue collection. The number of days of net revenue receipt lag is translated into dollars that are includable in the utility's rate base.

⁶ See Opinion 19-A, Carolina Power and Light Co., Docket NO. ER76-495, issued February 21, 1979, 6 FERC ¶61,154.

B. Prior Notice of Proposed Rulemaking

In 1979, the Commission began to reexamine its practices to determine how it might streamline its ratemaking procedures and practices to reduce its backlog of electric rate proceedings and to issue more timely decisions. The Commission issued a Notice of Proposed Rulemaking (NOPR)⁷ to establish a formula for calculating utilities' cash working capital allowances. Under that proposal, the 45-day convention in all its forms would have been abandoned and lead-lag studies rendered unnecessary.

The Commission's proposal was designed to provide a uniform, binding, and reasonably accurate means of arriving at a cash working capital allowance. Although recognizing that the formula would yield only approximations of actual revenue receipt lags or expense payment lags, the objective was to create a reasonably precise and indisputable working cash amount for each rate case.

The NOPR proposed that the cash working capital allowance be determined by application of a formula accounting for the following six annual expense items: (1) Fossil fuel; (2) wages and salaries (labor) expenses; (3) operation and maintenance expenses (other than nuclear or other fuel expenses, purchased power expenses, and labor expenses); (4) ad valorem taxes; (5) revenue taxes (based on projected revenues under proposed rates); and (6) income taxes payable. The total annual expense for each of the six items would have been multiplied by 40/360, corresponding to the fraction of the year (one-ninth) that the Commission, at that time, believed to be fairly representative of the length of time that the revenues needed to compensate a utility for expenses incurred rendering service typically remain uncollected (the "revenue receipt lag").

The formula would have required that the six expense amounts thus obtained be totalled to yield the average amount of cash that is uncollected by a utility between the time it provides service to its customers and the time at which it receives payment for that service. This was to be the first of two steps. The formula also would have required that the total amount of cash associated with the revenue receipt lags of the six expense items be reduced by an amount representing cash which is not needed

by a utility during the time between rendering service and paying the expenses attributable to such service (the "expense payment lag"), but which would have been needed if all expenses were paid when incurred. This adjustment recognizes that utilities generally pay expenses incurred in providing service at some time after the service is rendered. As a result of this calculation, the Commission had tentatively concluded that the fraction of the year for which expense payment lags exist for three of the six expense items does not vary significantly from utility to utility. The formula therefore would have multiplied these annual expenses by fixed time coefficients: labor expenses (10/360), other operation and maintenance expenses (25/360), and income taxes payable (90/360). With respect to fossil fuel expenses, ad valorem taxes, and revenue taxes, the Commission proposed that time coefficients be determined on a case-specific basis because the length of time that utilities delay payment of these expenses varies significantly from utility to utility.

The Commission received seventy comments in response to the 1979 NOPR. Many commenters predicted that, rather than reducing litigation in rate proceedings, the previously proposed formula would cause increased litigation because each of the six expense components could be disputed. Many comments objected to the formula because administrative costs of applying it would be greater than the costs of applying the 45-day convention. Many utilities requested that, if the proposed formula were nevertheless adopted, any filing utility be permitted to substitute actual expense lag experience for the fixed coefficients in the formula, when significant differences exist, in order to achieve greater accuracy. Some wholesale customers also suggested that, as an alternative to the application of the proposed formula, a zero cash working capital allowance should be established in lieu of the 45-day convention as the governing presumption about the working cash needs of most utilities.

The comments received pursuant to the prior NOPR have been reviewed and provide a point of departure for the Commission's proposals in this notice. In light of these comments and the Commission's experience, the Commission has developed a rule that uses as its starting point what it believes to be a more accurate presumption of the net working cash needs of utilities. Only in unusual circumstances does the

size of net revenue receipt lags or net expense payment lags appear to justify expending time and funds to support a cash working capital adjustment greater or less than zero. As a result of its reexamination of this subject, the Commission has determined to withdraw its earlier proposed generic formula for calculating cash working capital allowances.

C. Recent Developments

The Commission's recent experience suggests that a 45-day cash working capital allowance may be unrepresentative of industry requirements generally. Some utilities are experiencing leads in the collection of revenues, rather than lags. Although cash working capital is an element in nearly all rate filings, reliable lead-lag studies are not commonly developed. For example, studies were filed with the Commission in twelve of the twenty-one electric rate cases in which Commission opinions were issued after a formal hearing and initial decision in fiscal years 1982 and 1983.⁸ Only eight of these studies were accepted by the Commission as "fully-developed" (including all relevant expense and revenue data) and "reliable" (accurately and appropriately computed). Four of the accepted studies show net revenue receipt lags ranging from three to thirty-two days. The other four showed net expense payment lags of one to fourteen days.⁹ The assumptions that underlie the

⁷ The Commission typically receives more general rate filings than is reflected in formal Commission opinions. At least 80 percent, and perhaps as high as 90 percent, of general rate increase filings are currently settled before a Commission opinion is issued. During fiscal years 1982 and 1983, 165 general rate increase cases were filed with the Commission.

⁸ See Opinion No. 145, issued September 10, 1982, Docket No. ER79-150-003 (Southern California Edison Company—32-day net revenue receipt lag) 20 FERC ¶ 61,301; Opinion No. 133, issued November 9, 1981, Docket No. ER78-338-000 (Public Service of New Mexico—7-day net revenue receipt lag) 17 FERC ¶ 61,123; Opinion No. 141, issued June 23, 1982, Docket No. ER77-347-000 (Wisconsin Power & Light Company—19-day net revenue receipt lag) 19 FERC ¶ 61,286; Order on Application for Rate Increase, issued March 29, 1982, Docket No. ER79-478-000 (Public Service Company of New Mexico—1-day net expense payment lag) 18 FERC ¶ 61,278 (see also 18 FERC ¶ 63,040); Opinion No. 147, issued September 22, 1982, Docket No. ER80-214-000 (Pacific Gas and Electric Company—3-day net revenue receipt lag) 20 FERC ¶ 61,340; Opinion No. 155, issued November 30, 1982, Docket No. ER80-5-000 (Minnesota Power & Light Company—14-day net expense payment lag) 21 FERC ¶ 61,233; Opinion No. 164, issued May 12, 1983, Docket No. ER81-187-000 (Public Service Company of New Mexico—10-day net expense payment lag) 23 FERC ¶ 61,218; Opinion No. 146, issued September 17, 1982, Docket No. ER80-313-001 (Public Service Company of New Mexico—14-day net expense payment lag) 20 FERC ¶ 61,290.

⁹ Calculation of Cash Working Capital Allowance for Electric Utilities, 44 FR 33410, June 11, 1979. See also FERC Statutes and Regulations, Proposed Regulations, 1977-1981, Calculation of Cash Working Capital Allowances for Electric Utilities, ¶ 32,026.

formulation of this proposed rule are based on data derived from these eight studies.

The Commission's proposed rule accounts for all typical current expenses that significantly affect a utility's need to maintain cash on hand. While all utilities pay ad valorem taxes (mostly property taxes) and income taxes, the eight accepted studies show that utilities pay these tax expenses infrequently, typically after long delays relative to the stream of services provided in relation to these tax dollars. This long lag in tax payment appears to be the major factor reducing the net revenue receipt lag time. In fact, delays in tax payments may be creating overall net expense payment lags that, on the average, leave some companies with more working cash than needed to meet current cash expenses.

Although taxes are significant cash expenses that must be paid by utilities, they generally have not been taken into account in determining utilities' cash working capital requirements, contributing to the perceived excessive allowances.¹⁰ The fact that application of the 45-day convention does not take into account all necessary expenses may be responsible for the failure in some cases of the convention to yield allowances that reflect utilities' working cash needs with reasonable accuracy. Application of the convention selectively to only certain expenses also skews its results because there may be important timing variations in the payment of the unaccounted-for expenses. Some payments, such as employees' wages and salaries and bills covering train-delivered coal, are made quickly. Other payments like ad valorem and income tax bills, are typically paid after long delays. The variability of these working elements has led the Commission to reexamine its general rule for affording rate base treatment to cash on hand to cover those expenses.

III. The Proposed Rule

The Commission believes that the interests of greater accuracy, cost-based ratemaking, and reduced administrative delay require a reexamination of cash working capital allowances that are included in rate base.

Clearly, if the Commission can identify and set forth an equitable allowance level that reflects more closely the average utility's actual cash working capital needs, the less incentive there is for a utility, an intervenor, or Commission staff to file a study to

justify some other allowance. A rule that more accurately reflects utilities' actual needs and that permits exceptions from the general rule only in unusual circumstances should help reduce litigation time and costs. The result would be to reduce burden for all ratemaking participants, including the Commission, utilities, and ratepayers. The Commission therefore proposes such an approach.

A. Presumption Against Allowance

The Commission acknowledges that on the basis of its observations—including the eight cases discussed above—a perfect matching of expense payments with revenue collections, so as to produce a net lag in revenue receipts or expense payments of exactly zero, is uncommon. However, the Commission's experience indicates that actual net lags in revenue receipt or expense payment are generally so small that they have a minor effect on rates and realization of the allowed rate of return. Therefore, the Commission believes that what is, in effect, a working cash allowance of zero dollars more accurately reflects the needs of most utilities. It proposes to establish that allowance as the operable presumption for all utilities filing rate changes with the Commission.¹¹ This presumption against adjustments to rate base as a result of working cash needs is the primary focus of this proposal. Increased accuracy in setting rates based on costs will result from this presumption in most cases. The proposed rule would nevertheless provide for an adjustment other than zero if, absent the adjustment, the impact on a utility's ability to earn its return would be impaired or the utilities' rates to its wholesale customers would be significantly higher.

In conjunction with the zero presumption, the Commission proposes to allow inclusion of cash working capital in the rate base of a filing utility if it is shown that the timing of its expenses and revenues collection is

abnormal.¹² This exception to the general rule would be provided in recognition that not all factors affecting these revenue and expense payment timing differences are controllable, particularly when taxes are taken into account. For that reason, a utility may find itself with working cash needs, *i.e.*, a net revenue receipt lag, that without rate base treatment, are sufficient to impair the utility's ability to earn its allowed return. Conversely, net expense payment lags, particularly those created by taxes, may put a utility in a position to earn in excess of its allowed return. In both cases, the Commission believes an adjustment to rate base is appropriate and equitable. It therefore proposes a means of obtaining either such adjustment.

B. Filing for an Adjustment: Threshold Criterion

The Commission believes adoption of the zero allowance presumption would significantly reduce the amount of time and money spent on the cash working capital issue in wholesale electric ratemaking proceedings. Despite the perceived viability of this presumption, the Commission recognizes, on one hand, that disputes might still arise, even though the amount of rate base at stake might not justify the costs of resolving the dispute and, on the other hand, that a prohibition against any cash working capital allowance in rate base could work an undue hardship on investors or ratepayers in some cases. These considerations argue for an exception to the general rule.

If a participant adequately demonstrates that a utility's working cash needs vary significantly from the general rule, *i.e.*, a zero allowance, an adjustment to rate base that reflects either the utility's cash needs or its early collection of revenues would be made. In other words, the Commission is proposing that a cash working capital allowance not be changed from zero, unless a utility or other participant in the proceeding, including the Commission, submits a lead-lag study that demonstrates either a significant "net revenue receipt lag," that is, a delay in collecting money from

¹¹ Under the proposed rule, the presumption of zero will apply to each rate filing, including any filing by a utility that has submitted a fully-developed and reliable study approved by the Commission in a previous case. Proposed § 35.13(h)(12)(ii)(D), would, it should be noted, allow a utility to use the data concerning the timing of revenue collections and expense payments contained in the previous study. This is appropriate because such data tend to be relatively constant. A utility would therefore have little difficulty overcoming the zero presumption in succeeding cases, if circumstances remained unchanged. The Commission asks comment on whether it should alternatively set that utility's cash working capital adjustment presumptively at its previously-determined level, subject to changes in Period II expense levels or rebuttal by other participants.

¹² Commenters to this proposed rule, who believe that some presumption other than zero would more be more representative of utilities' cash working capital needs, are encouraged to submit data demonstrating average cash working capital requirements for the industry. Such data, however, should be submitted in such a form as to facilitate comparison with the lead-lag studies that the Commission already has accepted and considered in final orders. The Commission suggests, in this regard, adherence to the format required under the proposed rule.

¹⁰ See Opinion No. 19, *Carolina Power and Light Company*, Docket No. ER76-495, issued August 2, 1978, 4 FERC ¶ 61,107 at 61,224.

ratepayers for expenses incurred in their behalf, or a significant "net expense payment lag" in relation to revenue collection. The Commission will not accept such a study and request for adjustment, however, unless it is shown that such a lag is greater than 15 days. This proposed exception to the general rule thus would create a 15-day lag threshold standard or, to state it another way, a thirty-day "no-allowance zone" bounded on one end by a net expense payment lag of 15 days and on the other end by a net revenue receipt lag of 15 days.

The primary purpose of the filing threshold, or no-allowance zone, would be to reduce the time and money spent litigating the cash working capital issue by discouraging parties from conducting lead-lag studies where the amount at stake is not likely to be large. The 15-day revenue or expense lag requirement is sufficiently large to provide some significant relief from litigation costs and thereby reduce the burden on the parties and Commission resources, but not so large as to prevent rate base adjustments that would reflect lags large enough to seriously impact on either a utility's investors or its customers. The Commission believes the 15-day lag requirement would provide a reasonable balancing of these objectives. The Commission invites comment both as to whether such a threshold filing requirement is needed and the appropriateness of the standard selected. In addition, comments are requested regarding how difficult it would be for a participant in a rate case to determine the likelihood of a greater-than-15-day lag and, based on that estimate, whether preparation of a lead-lag study would be justified.

Of the eight lead-lag studies accepted by the Commission in fiscal years 1982 and 1983, two would have been accepted under the rule proposed here for the purpose of adjusting the rate base. A zero allowance would have replaced the other six studies, which produced results that would not meet the 15-day-lag threshold and thus would lie within the proposed thirty-day no-allowance zone. The Commission believes that the filing threshold should also save time and money in many of the large number of ratemaking proceedings that will ultimately be resolved in settlement but which might otherwise involve more extended cash working capital disputes. While participants in rate proceedings still would need to determine when a fully-developed study would be worthwhile, even if the thirty-day no-allowance zone is adopted, the resources devoted to the

cash working capital issues generally should be significantly reduced.

The Commission recognizes that a zero cash working capital requirement may not be possible for every utility. To a greater or lesser extent, the timing of the collection of revenues and payment of expenses may be subject to factors beyond a utility's control. The Commission has nevertheless concluded that the proposed standard for filing a study would provide reasonable protection for stockholders and customers, while helping to reduce litigation of this issue. If a reliable study meeting the standard is filed, rate base will be adjusted to reflect fully the demonstrated net lag in expense payments or revenue receipts.

In proposing this ratemaking device, the Commission is cognizant of the impact on the respective parties. Insofar as jurisdictional rates are involved, all costs incurred by a utility for conducting, filing, and litigating a study are borne by wholesale ratepayers, including studies submitted by a utility filing for a rate change. Assuming that such costs can be reasonably anticipated, they can be included in test period estimates. Therefore, there is a theoretical incentive for a utility to file a study showing any lag greater than 15 days. If rate bases adjustments were permitted to account for only that portion of a lead or lag in excess of 15 days, an option on which comments are invited, the effective no-allowance zone would be somewhat greater in practice. Because of who bears the costs, however, the incentive to prepare a study to demonstrate a revenue receipt lag will always be greater than the incentive to customers to show a smaller net revenue receipt lag or a net expense payment lag.

Differences between revenue collection and expense payments tend generally to have what the Commission views as a relatively small impact on customer rates and stockholders' equity, and this would remain true if the proposed rule is adopted, whether or not the first 15 days of net revenue receipt lags or expense payments lags were recognized for rate purposes. For example, if both a utility and a ratepayer submitted lead-lag studies, but the customer's study was the one accepted by the Commission, rates would be, on average, approximately 0.03% lower for each day of lag claimed by the utility but demonstrated not to exist by the customer's study.¹³ If the

customer's study showed the lag to be 15 days less than that claimed in the utility's study, rates would be about 0.44% lower than they would be if the utility's findings were accepted. For further illustration, if the utility's unaccepted study shows a 45-day net revenue receipt lag, but the customer's study demonstrates that there is no net lead or lag, there would be no adjustment at all to rate base, and rates would be 1.28% lower than they would be if a 45-day lag was given effect. However, the costs of preparing, filing, and litigating a study would be borne by the customers, so that overall customer savings would depend on how much study costs are exceeded by actual rate reductions. If rate savings realized by a customer as a result of doing a lead-lag study, are less than the customer's cost in preparing the study, the customer would lose money by doing a study even though it demonstrated that the actual lag was less than that stated by the utility.

A filing utility that submits an acceptable lead-lag study under the proposed rule, rather than accept a presumptive zero allowance, would receive similarly small benefits even if its study is deemed reliable. Each additional day of lag shown by a study would raise shareholders' total earned return on investment approximately 0.02 of a percentage point. This, for example, would be equivalent to increasing a 12.50% rate of return on equity to 12.52%. If a 15-day lag is shown, the utility's equity return would be increased by an amount equivalent to increasing the effective rate of return by about 0.30 of a percentage point, while demonstrating a 45-day lag would increase equity return by an amount equivalent to raising the rate of return 0.92 of a percentage point. Unlike the situation with customers, however, filing and litigation costs do not offset these benefits, because they are also borne by the customers of the filing utility, not the shareholders. These costs, to the extent they can be anticipated by the utility, may be included in test period estimates.

The Commission also proposes an alternative method of stating and computing the filing threshold that would represent an impact on utility rates equivalent to the 15-day test. As a substitute for the 15-day lag standard, a percentage of total revenue requirements test could be used. In other words, if a customer or utility requests an adjustment, the study must show that any net expense payment lag or revenue

¹³ These estimates are for the "average company" in the sense that they are based on the relationship between rate base, total revenue, and operation and

maintenance expenses, as measured by annual industry aggregate data for 1981.

receipt lag, if given effect, would increase or decrease the utility's projected revenue requirements, before taking into account cash working capital, by at least 0.5 of one percent. If a rate base reduction or increase were requested by any participant, the first step in determining whether this threshold standard was met would be to multiply the amount of the requested cash working capital adjustment to be added to, or deducted from, rate base by the claimed overall rate of return, or deducted from, rate base by the claimed overall rate of return, adjusted to reflect income and revenue tax effects. This amount would then be divided by total projected revenue requirements, yielding a percentage of total rates. If this calculation demonstrated, in a qualifying lead-lag study, that 0.5 percent of the projected revenue requirements would be realized or foregone by the utility if the requested adjustment were made, an adjustment to test period rate base estimates would be allowed.

This approach has two advantages. It may be clearer to express the filing threshold in terms of a percentage impact on revenue requirements. Cash working capital requirements are normally expressed in dollars, not time periods. A threshold test that is intended to exclude from consideration those cases that might involve only minimal amounts of working cash is easily expressed as a percent of all rates and such calculations will use the dollar level of cash working capital adjustments as their starting point. Moreover, a threshold expressed as a percent of a utility's revenue requirements will result in proportionately the same impact for each utility insofar as the effect of precluding any adjustment to rate base is concerned. Regardless of which standard it selects, the Commission is proposing fundamentally one threshold test. Comments on the need for the nature of that threshold are solicited.

D. Proposed Elements of Lead-Lag Studies

Under the proposed rule, the rate base of a filing utility may be adjusted to reflect cash working capital other than zero if a proceeding participant files a fully developed and reliable lead lag study. In order to ensure that cash working capital adjustments to rate base are made in a consistent and justifiable manner, the proposed rule also would set forth general specifications for lead-lag studies.

The Commission is proposing that lead-lag studies be limited to those nine "allowable" expense items which the

Commission has determined to have the most significant impact upon working cash needs. These expenses are: (1) fossil fuel, (2) leased-nuclear fuel, (3) purchased power, (4) labor, (5) other operation and maintenance (excluding owned-nuclear fuel), (6) payroll taxes, (7) ad valorem taxes, (8) revenue taxes, and (9) income taxes payable. No expenses are permitted any impact on jurisdictional rate base unless they are either allocable or assignable to the wholesale service at issue. For example, fuel expenses not associated with transmission-wheeling services would not be includable in cash working capital calculations. Three of these nine expense items—purchased power, payroll taxes, and income taxes—were not included in the June 1979 proposed formula. However, many commenters on that proposal suggested that these additional expenses have a significant impact on a utility's working cash needs and therefore should be accounted for in the formula.¹⁴

The method of computing net revenue receipt lags and net expense payment lags is set forth in proposed § 35.24(c) and the related filing requirement in § 35.13(h)(12)(ii). More specifically, to determine the proper cash working capital allowance for a particular utility, the overall time period between the utility's weighted average date of payment of expenses incurred in the rendition of service and its weighted average date of receipt of payment for the service from its customers must be determined. The expenses considered in arriving at this determination should include only those expenses that are allowable for ratemaking purposes under § 35.13 and are not accounted for elsewhere under one of the other categories of expenses in addition to working cash that are includable in the overall total working capital allowance: the allowance for materials and supplies, including fuel inventories, and the prepayment allowance. Also, calculations of cash working capital adjustments should not include any revenues associated with any portion of a revenue receipt lag period with respect to which a late-payment device has

accounted, or will account, for the time-value of those revenues during the period that collection of those revenues lags behind the utility's payments of associated expenses.

The Commission recognizes that data from two different accounting periods is required to be employed in any study rebutting the presumption of a cash working capital adjustment or zero. The timing of revenue collections and expense payments are derived from Period I data or form a previously approved study. Such data must be updated for any known and measurable changes. These coefficients are applied to Period II allowable expenses to develop the appropriate Period II cash working capital allowance. In addition, some of these expense components have asset counterparts¹⁵ and therefore lead-lag studies must make a distinction between certain of the particular expense components which qualify for rate base treatment as cash working capital and their complementary asset counterparts for which rate base treatment is otherwise provided. The proposal would permit cash working capital calculations to include amounts with respect to costs for components of the nine expense categories that are includable in cost of service statements submitted pursuant to § 35.13 for ratemaking purposes. Cost of service statements filed under § 35.13 must reflect the allocation of expenses to accounts in the Uniform System of Accounts.¹⁶

To avoid another source of possible confusion, the Commission notes that the derivation of the attendant lead-lag coefficients for each of the qualified expense components may be based upon the actual experience for a time

¹⁵ For example, fuel stocks that are given separate rate base treatment to cover the time period running from the date of any prepayment to the rendition of utility service.

¹⁶ The Commission's Uniform System of Accounts is set forth at 18. CFR Part 101. This table indicates the Uniform System of Account expense account numbers and the corresponding § 35.13(h) cost of service provision:

Cash working capital component	Uniform system account numbers	§ 35.13(h)
Fossil fuel expense	501, 547	(8) AH.
Purchased power expense	555	(8) AH.
Leased-nuclear fuel	518	(8) AH.
Payroll taxes charged	408.1	(11) AK.
Ad Valorem taxes charged	408.1	(11) AK.
Revenue taxes charged	408.1	(11) AK.
Income taxes payable	409.1	(38) BK(I)(C).
Labor expense	500-932	(9) AI.
Residual operation and maintenance expenses excluding owned-nuclear fuel.	500-932	(8) AH.

¹⁴ The comments also suggested three capital related items for inclusion in the proposed formula. These items are (1) test period bond interest (based on the weighted cost of long-term debt and test period rate base excluding cash working capital), (2) test period preferred stock dividends (based on the weighted cost of preferred equity and test period rate base excluding cash working capital), and (3) the sum of (a) test period depreciation expenses, (b) test period owned nuclear fuel expenses, and (c) test period provision for deferred income taxes. The Commission does not agree, as discussed below, that any of these three suggested additional elements should be included in calculations of cash working capital adjustments.

period other than Period I. The coefficients derived from either actual Period I data or data from some other representative period, if Period I is not and cannot be modified to be representative, would be applied to projected Period II counterpart chargeable amounts for each qualifying item that is allocable to the service at issue.

1. *Determination of net revenue receipt lags.* The proposed rule presumes that customers generally pay for all utility expenses once during a billing cycle. A single fraction of the year during which the revenue to compensate the utility for incurring the expenses is uncollected is therefore developed and applied the same for all expenses. This "revenue receipt lag" is the time period from the midpoint of the service period to the average date of payment by the customer. A "service period" is the period for which the utility customarily measures the service rendered to its customers, typically 30 days.

For purposes of cash working capital analysis, the revenue lag may be broken down into three periods: rendition of service, bill preparation, and bill payment. For example, assuming a continuous rendition of electric service during a 30-day billing cycle, service is provided, on the average, 15 days prior to the end of the service period. The revenue lag, therefore, consists of this 15-day period plus allowances for bill preparation and bill payment less the time frame covered by any late payment penalties. Further, the Commission believes that utilities typically allow about 10 days for meter reading, bill preparation, and mailing, with a 15-day period thereafter for bill payment.

In view of the above considerations, the Commission's 1979 NOPR would have required that the total revenue lag be considered to be 40 days in all cases. However, many commenters on the 1979 proposed rule, predominately utilities, opposed the establishment of a fixed 40-day revenue lag. Relying upon results of individuals revenue lag calculations, utilities claimed that the 40-day period is too short. Utilities indicated that the revenue lag is longer because customers do not or, in some instances, cannot be required to pay their bills within the 15-day payment period used in deriving the proposed 40-day revenue lag. Because the revenue lag was to be multiplied by the total of all expense items included in the formula, utilities claimed that any difference between individually calculated lags and the 40-day lag is critical and should be recognized in the formula. Furthermore, utilities indicated

that the revenue lag is relatively easy to calculate. Therefore, many respondents favored calculation of individual revenue receipt lags for each utility.

In response to these comments and due to the fact that the previous proposal and current policy ignore the effect of late payment penalties, the Commission has determined that, in preparing lead-lag studies, utilities and other rate case participants should be required to calculate company-specific revenue lags. This determination has been made also in view of the Commission's belief that the proposed presumptive zero allowance and thirty-day no-allowance zone will substantially diminish the number of instances lead-lag studies will be prepared.

Under the proposed rule, this revenue receipt lag would be netted against the weighted average expense payment lags to yield a cash working capital adjustment that would be added to $(CWCA = REV - EXP)$ or deducted from $(CWCA = EXP - REV)$ rate base.

2. *Fossil Fuel and Leased Nuclear Fuel Expense Component.* Payment for fossil fuel purchases is a large part of allowable expenses and therefore has a significant impact upon cash working capital needs. The expense payment lag associated with the fossil fuel expense is dependent upon billing and payment procedures employed by the fuel suppliers, with considerable variation to be anticipated, depending on such factors as quantities purchased, frequency of deliveries, available onsite storage facilities for each type of fuel used, and type of purchase (contract or spot). The expense payment lag is also dependent upon the fuel mix used for generating purposes, which varies from utility to utility. Accordingly, an analysis of fossil fuel purchases and their payment patterns is needed for each utility in order to obtain a reasonably accurate measure or working cash needs resulting from fossil fuel purchases over and above that covered by fuel stock.

A concern raised by many of the comments on the June 1979 proposal pertained to the proper fuel amount to include in the formula. Several comments indicated that the dollar amount of fuel purchased for the test period may not equal the amount of fuel expended during that period due to inventory fluctuations. This concern appears misplaced, since the dollar amount of fuel paid for prior to service rendition is recognized in the overall working capital allowance on account of fuel inventories.

Another major concern expressed in the comments on the June 1979 proposal that pertains to fossil fuel expense lags is the extent of the calculation which is required to be made. Many commenters contended that the volume of fuel purchases is so great that an analysis of every transaction would be costly, impractical, burdensome, and unnecessary. Two alternative procedures were suggested in the comments as practical means of determining the expense payment lag coefficient for fossil fuel.

The first alternative was to limit the analysis to major fossil fuel suppliers and to terms of delivery and payment specified in contracts and/or purchase orders for spot fossil fuel purchases. Although such procedure may reduce the manhours required to perform the analysis, this would further reduce the validity of the results obtained from the proposed rule, because target contract payment dates, not actual payment dates, would be used.

A second alternative suggested was the use of a sample of fuel purchases with which to calculate the expense lag. Even in cases where many thousands of purchase invoices are involved, analysis of an adequate sample should produce very little deviation. The Commission would be inclined to favor the use of a sampling technique to determine the weighted average expense lag for a fuel type (e.g., coal) if use of the sampling technique would reduce administrative burden and cost while ensuring reasonable accuracy. Therefore, the Commission requests comments as to whether a sampling should be permitted and, if so, how accuracy could be adequately maintained.

3. *Purchased Power Expense Component.* The 1979 NOPR stated that purchased power was to be excluded from the cash working capital formula because the revenue lag and assigned expense lag associated with purchased power were equal. Many commenters disagreed with the assumption that the billing and payment procedures used in purchased power transactions between utilities conform closely with those associated with the rendition of electric service to wholesale customers. Utilities indicated that they pay other utilities for purchased power before they in turn receive payment from the wholesale customers to whom the purchased power was resold. Utilities suggested that they be permitted the option of using an individually calculated expense payment lag for purchased power if the utility could prove that a significant difference existed between the formula results and actual experience.

Some utilities suggested not only that a review of interchange agreements would provide sufficient support for refuting the assumption of equal revenue receipt and expense payment lags for purchased power but also that interchange transactions should be used in determining the expense payment lag associated with purchased power. The Commission believes that interchange transactions generally involve payments-in-kind, netting out to zero, so that cash working capital is unnecessary with respect to such arrangements. However, since this is apparently not always the case, the Commission is proposing to permit inclusion of purchased power expense, including the net of any interchange reportable under Account No. 555 of the Commission's Uniform System of Accounts. In computing cash working capital requirements, each utility would determine and apply its own, individual appropriate lag coefficient for this expense item.

4. Labor Expense Component. The 1979 NOPR proposal assigned a fixed expense lag coefficient of 10 days to this expense item. Several commenters questioned the appropriateness of assigning 10 days as the coefficient, voicing concern over the Commission's lack of consideration of biweekly wage payments. This concern should be eliminated by the Commission's decision that all time lag coefficients should be determined individually by utilities.

5. Other operation and maintenance expenses. Other operation and maintenance expenses includes all operation and maintenance expenses except fuel, purchased power expense, labor expenses, and owned-nuclear fuel expense. Although the other operation and maintenance expense category includes a variety of items, operation and maintenance supply expenses are usually the predominant items.

Because of the variety and diverse nature of the items included within other operation and maintenance expenses, the Commission had concluded in 1979 that performing a detailed payment analysis would cause excessive additional administrative costs. Therefore, the Commission proposed that a 20-day expense lag be assigned to operation and maintenance expenses. However, several commenters that questioned the validity of the rationale for the fixed 20-day expense lag proposed that an option to calculate an individual lag be included in the formula as an alternative to the 25-day expense lag, if the individual result is substantially different. Because the

Commission believes its new proposed rule would result in fewer lead-lag studies, it has decided in favor of requiring greater accuracy in those studies that would still be prepared and, therefore, is proposing that each utility be required to calculate and apply its own company-specific expense lag for other operation and maintenance expenses, based on the predominant element, operation and maintenance supplies.

6. Ad Valorem Taxes and Revenue Taxes. Ad valorem taxes are those taxes which are based upon an assessment or valuation of property (tangible and intangible) owned by a utility (e.g., property taxes). Revenue taxes are those taxes which are based upon the level of revenue earned by a utility (e.g., gross receipts taxes). Ad valorem taxes are typically less than 5% of the total operating expenses. Revenue taxes are applicable only in certain jurisdictions and may not be a large component of operating expenses. Even if these taxes are not a significant consideration in cash working capital evaluations, tax payment schedules frequently involve lengthy lag periods, thereby giving the taxes added importance in determining average cash availability for working capital. They should therefore be taken into account.

The payment lags for ad valorem and revenue taxes fluctuate widely from utility to utility because each company is subject to localized assessments and payment schedules. Some expenses are paid in advance while others are paid at varying lagging intervals. A wide range of payment dates within an individual utility's tax items in these categories may occur due to the difference in the taxes assessed among sectors of the service territory of utility. Therefore, in order that suitable expense payment lags for ad valorem and revenue taxes be calculated, the Commission is proposing a requirement that the expense payment lags for these items be determined on a utility-specific basis.

Almost all of the comments on the earlier proposal addressing the issue supported the provision for individual calculation of expense lags for ad valorem taxes and revenue taxes. Some commenters however, proposed that all other taxes also be included in the formula. Because of the numerous miscellaneous other taxes reflecting relatively small expense liabilities and the number of these taxes which are incurred in securing rights to provide retail service (e.g., franchise taxes), the June 1979 proposed formula included only those taxes that the Commission at that time believed to generally have a

significant impact upon working cash requirements related to wholesale service, i.e., ad valorem taxes and revenue taxes.

Furthermore, revenue taxes would include only those taxes which are based solely upon wholesale revenue collections or gross receipts. Ad valorem taxes would include only those taxes for which the principle underlying basis is an assessed value of that on which the tax is being levied.

7. Payroll Taxes. Payroll tax expenses were not allowable expenses under the 1979 NOPR because the Commission felt at that time that the expense had an insignificant impact upon working cash needs. However, many commenters argued that payroll taxes expense should be recoverable in the cash working capital allowances. Utilities and other parties indicated that social security taxes, the predominant component of payroll taxes, are paid during the entire year for almost all employees. Based upon information supplied in the comments relating to the payment of taxes, and with the knowledge that these amounts are continuously growing, the Commission proposes now to incorporate this expense element in working capital calculations. Each utility would determine its own expense payment lag time coefficient.

8. Income Taxes. Income taxes payable was included as an expense component in the June 1979 proposed rule. Income tax payable is income tax allowable under § 35.13(h)(36) (Statement BK(i)(C)) less any deferred taxes. Income taxes payable was considered to be the appropriate amount for which working cash requirements should be analyzed, because income tax allowable includes deferred taxes which are capital related and typically do not require a cash outlay during the test period. Income taxes payable would include state as well as federal income taxes, because state income tax payment procedures generally reflect payment patterns for federal income taxes.

The expense lag for income taxes payable in the earlier proposed rule was fixed at 90 days. Although many of the respondents were noncommittal or generally supported the figure, some commenters observed that the 90-day expense lag represents the hypothetical bare minimum tax payment by the utility during the taxable year. Such amount, it was contended, can be paid only if a perfect estimate of taxes payable is made. Various commenters also indicated that utilities generally remit more than 80% of their tax liability

during the taxable year to provide a cushion in avoiding underpayment penalties.

In order that the rule more accurately reflect tax payment experience, the Commission is proposing that each utility calculate its expense lag coefficient associated with income taxes payable. However, while some commenters proposed separate components for federal income taxes payable and state income taxes payable the Commission believes that the federal tax lag coefficient should be applied to both federal and state income taxes payable to avoid unnecessary complications.

9. Non-Allowable Expenses. The Commission's proposed resolution in this rulemaking of which expenses should be considered in formulating the cash working capital needs of any utility reflects its analysis of cases and comments on this issue and a determination that various kinds of expenses and expense-related issues are best considered elsewhere in a utility's cost of service.

Questions were raised by the commenters on the 1979 NOPR concerning the inclusiveness of the term "test period fossil fuel expense." One utility proposed that the cost of geothermal energy be considered equivalent to fossil fuel expense and included in the formula calculations. The cost of geothermal energy is an electric power production expense but it is not a fossil fuel expense and therefore is not includable in the fossil fuel expense item category. The cost of geothermal energy and its expense payment lag should be considered as part of the other operation and maintenance expense item category.

A substantial number of the comments on the 1979 proposal dealt with the exclusion from consideration of depreciation and amortization expense relating to nuclear fuel owned, as opposed to leased, by the utility. Although amortization of such "owned-nuclear fuel" in the reactor does not require a cash outlay during the service period, many respondents pointed out that there is a reduction in the rate base upon which utilities are allowed to earn a return. Because the process of rate base averaging implies a reduction in rate base prior to the time that revenues reflecting such adjustments are received from customers, these commenters argued that utilities therefore require working cash for the period between rate base reduction and revenue receipt. Without working cash recognition for this period, some commenters contended, utilities would be deprived of the opportunity to earn a return on all

investment necessarily tied up in the utility business but not appearing in the plant accounts (rate base).

The Commission recognizes that depreciation and amortization expenses, including owned nuclear fuel expense, are significant operating expenses. However, such expenses represent recovery of investments and do not require a current outlay of cash. Therefore, the Commission has concluded that such items need not be included in a calculation of cash working capital requirements for purposes of this rule. This decision is consistent with past Commission practice under which it has repeatedly rejected the inclusion in cash working capital calculations of non-cash items such as depreciation, amortizations of various items, insurance premiums, pensions, etc.¹⁷ The rationale for the policy has been explained:

*** The purpose of the cash working allowance is to compensate the investors for the use value of their money where the company is required to pay expenses prior to receiving from the ratepayers the revenues associated with those expenses. Depreciation expense is not a cash expense requiring payment by the Company prior to receipt of revenue from the ratepayers. Rather, it is in the nature of a bookkeeping expense. * * *

The Commission also recognizes that, although a return on investment is due a utility when service is rendered, the equity and preferred return components of revenue typically are not received until forty days after service is rendered. However, the Commission has concluded that the proposed rule need not address this matter because of the offsetting consideration that neither does the proposed rule require a utility to utilize the interest component of return as working cash, even though the interest may not be paid to the bondholders until after the related revenue is received by the utility. Further, the Commission has taken the position that, since both common and preferred equity return belong to the utility cannot be expected to use the related revenues subsequently received as working cash without remuneration.¹⁸

Further, the Commission does not believe that minimum bank balances that a utility may be required to maintain in order to secure bank account services are properly

considered part of a utility's cash flow requirements for day-to-day operations. In this regard, the Commission notes that, if a utility is required to maintain minimum bank balances under terms of written agreements, the utility may make a separate claim for rate base treatment. As a related matter, the Commission reiterates its position that any need for compensating bank balances required to compensate a lending institution for extending a line of credit necessary to provide for short-term loans is more appropriately considered either in establishing an appropriate rate of return or in fixing the proper accrual rate for allowance for funds used during construction.²⁰

10. Calculation of Formula Components. Many comments on the 1979 NOPR expressed some uncertainty, of continuing relevance to this proposal, regarding the procedure for calculating the fuel expense lag coefficient. Under this new proposed rule, the fuel expense lag coefficient would be determined through analysis of the payment dates for the particular expenses charged to service periods covered by that test period. Payments for fuel received during the first month of the test period would be analyzed with respect to their relation to the midpoint of the first month (service period). Payments for deliveries during the second month would be compared with the midpoint of that second month, and so on. Since payment dates are entered in cash payment journals when cash is disbursed in settlement of a particular expense obligation, there should be no uncertainty surrounding the determination of when cash is disbursed. The midpoint of a service period does not change, and the lag between the midpoint of the service period and the payment dates for fuel should therefore be readily calculable. Therefore, the comparison of payment dates for fuel deliveries with the midpoint of the service period in which delivery occurs should provide a defined, objective procedure for determining the fuel expense payment lag coefficient for the test period.

Several respondents also raised questions regarding the treatment of payments made before the end of the service period in calculating expense lags. Payments made before the end of a service period should be included, but this does not mean prepayments. Prepayments are a separate working capital component and consequently

¹⁷ See Opinion No. 55, *Southern California Edison Company*, Docket No. E-8570, issued August 1, 1979, 8 FERC ¶ 61,099 at 61,377.

¹⁸ See Initial Decision on Application for Rate Increase, *Southern California Edison Company*, Docket No. ER76-205, issued June 1, 1978, 3 FERC ¶ 63,033, at 65,209.

¹⁹ See Opinion No. 110, *Louisiana Power & Light Company*, Docket No. ER77-533, issued January 28, 1981, 14 FERC ¶61,075 at 61,122.

²⁰ See Opinion No. 19, *Carolina Power and Light Company*, Docket No. ER76-495, issued August 2, 1978, 4 FERC ¶ 61,107 at 61,224.

must not be included in the cash working capital calculations.

Some commenters on the 1979 NOPR expressed confusion regarding the period for which ad valorem taxes and revenue taxes expense payments lags are to be calculated. This uncertainty is reflected by those respondents' concern over the validity of the expense payment lag calculation when the test period does not coincide with the fiscal year of the taxing authority. For cash working capital purposes, the non-coincidence of the tax year and the test year is immaterial to expense payment lag calculation. The purpose of the calculation is not to analyze payments made during the period encompassed by the test year, but rather to determine the lag in payment of tax expense incurred during each service period of Period I.

IV. Certification of No Significant Economic Impact

The Regulatory Flexibility Act (RFA)²¹ requires certain statements, descriptions and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities."²² Pursuant to section 605(b) of the RFA, the Commission certifies that it is not required to make an RFA analysis.

This proposed rule would only affect electric utilities that engage in wholesale activities and their wholesale customers. These companies would be required to develop and file lead-lag studies only if they decided to rebut the presumption of a zero cash working capital adjustment to test period rate base estimates. Virtually all electric utilities that distribute electricity on wholesale level have annual operating levels over \$1 million. In addition, this rule, if promulgated should have an insignificant effect on the filing burden on these electric utility companies because they already collect the information needed to analyze cash working capital needs for other purposes. Further, the Commission expects that any filings of lead-lag studies pursuant to this proposed rule would be infrequent because the presumption that zero is the appropriate cash working capital adjustment would not be contested in many instances. Adoption of the proposed filing threshold would even further reduce the number of lead-lag studies prepared. Finally, the substitution of the zero presumption for the 45-day convention would only result in a net reduction in filings by utility customers.

V. Paperwork Reduction Act

The information collection provisions in this proposed rule are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act²³ and OMB's regulations.²⁴ Interested persons can obtain information on the proposed information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Attention: Jack Kendall, (202) 357-8033). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VI. Termination of Earlier Docket Number

This notice of proposed rulemaking begins the Commission's reexamination of the cash working capital issues in ratemaking proceedings and has been assigned the new Docket No. RM84-9-000. Comments received in Docket No. RM79-49-000 on the Commission's earlier proposed rulemaking on the same issues have been considered in formulating the new proposed rule. However, in view of the length of period that has passed since those comments were submitted, the Commission does not assume that the commenters' views expressed at that time remain unchanged or applicable to the new proposed rule. Therefore, the Commission will not further consider those comments on the June 1979 proposal in its deliberations as to whether to issue a final rule in this new proceeding. Any further action by the Commission with respect to cash working capital issues will be taken in Docket No. RM84-9-000. Accordingly, the Commission is issuing in conjunction with this notice of proposed rulemaking a separate order withdrawing the June 1979 notice of proposed rulemaking and terminating Docket No. RM79-49-000, effective on the publication of that order in the Federal Register.

VII. Written Comment Procedures

The Commission invites all interested persons to submit written data, views and other information concerning the matters set out in this notice. All comments in response to this notice should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should refer to Docket No. RM84-9-000. An

original and 14 copies should be filed. All comments received prior to 4:30 p.m. EDT., June 4, 1984, will be considered by the Commission prior to promulgation of the final regulations.

All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection during regular business hours in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend Part 35, Title 18, Chapter I, Code of Federal Regulations, as set forth below.

By direction of the Commission.
Lois D. Cashell,
Acting Secretary.

PART 35—FILING OF RATE SCHEDULES

1. The authority for Part 35 is amended to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791-828c.

2. Part 35 is amended in the table of contents by adding in appropriate numerical order a new § 35.24 to read as follows:

* * * * *

35.24 Cash working capital adjustment:
* * * * *

3. Section 35.13(h)(12)(ii) is revised to read as follows:

§ 35.13 Filing of Changes in Rate Schedules.

* * * * *

(h) Cost-of-Service Statements. * * *
(12) Statement A1—Working capital.
* * * * *

(ii) Cash working capital. The filing utility (or other participant in the proceeding, as appropriate under § 35.24) may request a cash working capital adjustment to rate base (CWCA) under this clause by submitting a study of average monthly working cash requirements that reflect the extent to which day-to-day operational utility service revenues are received later or earlier than cash disbursements necessary to provide the service. Such request and study may be filed only if the net revenue receipt lag or net expense payment lag can be shown to exceed a monthly average of 15 days, in accordance with the standards or

²¹ 5 U.S.C. 601-612 (Supp. IV 1980).

²² *Id.*, § 603(a).

²³ 44 U.S.C. 3501-3520 (Supp. I 1980).

²⁴ 5 CFR 1320.13 (1983).

§ 35.24. Statement AL shall contain a summary of such study, which conforms to the following requirements.

(A) *Addition to rate base.* If the study demonstrates a net revenue receipt lag for Period I, adjusted to reflect changes that affect revenue collections and expense payments during the test period and that are known and measurable with reasonable accuracy, provide the following data in accordance with the general provisions of paragraph (h)(12)(ii)(D) of this section.

(1) With respect to the sum of all allowable expenses, the average time during Period I between rendition of service to customers by the utility and when revenue attributable to that service is collected by the utility, measured as the number of days from the midpoint of the service period to the average date of receipt of payment by the wholesale customers and expressed as a fraction of a year (360 days), and the total of allowable expenses for the test period. $REV = ?/360$ (sum of allowable expenses)

(2) For each allowable expense, the average time during Period I between when the rendition of service to customers by the utility, measured as the number of days from the midpoint of the service period to the average date of payment of the allowable expense and expressed as a fraction of a year (360 days), and the total of each allowable expense for the test period. $EXP = \text{Sum of } ?/360$ (each allowable expense) for all allowable expenses

(3) State the total CWCA requested as an addition to rate base.

$CWCA = REV - EXP$

(B) *Deduction from rate base.* If the study demonstrates a net expense payment lag for Period I, adjusted to reflect changes that affect revenue collections and expense payments during the test period and that are known and measurable with reasonable accuracy, provide the data described in paragraph (h)(12)(ii)(A) of this section and state the total CWCA requested as a deduction from rate base.

$CWCA = EXP - REV$

(C) As an indication that the party is eligible to file this portion of Statement AL, under § 35.24(c) (2) or (3), state the total net expense payment lag or revenue receipt lag, calculated in days using the weighted average time components presented under paragraphs (h)(12)(ii) (A) or (B) of this section.

(D) *General provisions.* (1) The definitions and provisions of § 35.24 of this part apply.

(2) To achieve comparability, the amounts stated shall reflect uncollected revenue and unpaid allowable expenses from the same point in time, so that the

net effect of uncollected revenue and unpaid allowable expenses are calculated appropriately. The benchmark shall be the rendition of service expressed as the midpoint of the service period during which service is rendered. For any expenses paid at intervals greater than a service period, such as quarterly or annual taxes, the point of rendition of service that is the benchmark for measuring all expense payment or revenue receipt lags, shall be the point in the payment cycle that represents the average midpoint of all service periods during that cycle.

(3) For purposes of determining the levels of allowable expenses, the study shall use data for the test period, as defined in paragraph (d) of this section. For purposes of calculating the average length of any revenue receipt lag or expense payment lag, the study shall use data for Period I, adjusted to reflect changes that affect revenue collection and expense payment during the test period and that are known and measurable with reasonable accuracy.

(4) If data other than Period I data, such as data from a previously-approved study, are used for calculating the length of average expense payment or revenue receipt lags, a statement must be supplied explaining the reasons for using the other data and why Period I data are otherwise unnecessary or inadequate.

4. Part 35 is amended further by adding a new § 35.24 to read as follows:

§ 35.24 Cash working capital allowance.

(a) *Scope and Applicability.* This section:

(1) applies to any initial rate schedule or rate schedule change, other than certain rate increases under § 35.13(a)(2), filed by a public utility under this part; and

(2) governs any cash working capital adjustment to rate base.

(b) *Definitions.* For purposes of this section and any cash working capital study filed under § 35.13(h)(12)(ii), the following definitions apply.

(1) "Cash working capital" means the total average amount of cash needed by a public utility on a day-to-day basis to pay allowable expenses, if the utility has a net revenue receipt lag.

(2) "Cash working capital adjustment" means:

(i) an addition to a utility's rate base of an amount of cash working capital required on hand, if a net revenue receipt lag is demonstrated under this paragraph; or

(ii) a deduction from a utility's rate base of an amount of cash that is available to the utility as a result of a

net expense payment lag demonstrated under this paragraph.

(3) "Allowable expenses" means only the following utility operating expenses chargeable to the test period, as recognized for ratemaking purposes and set forth in the utility's rate schedule filing:

(i) "Fossil fuel expense" reported in § 35.13(h)(8)(i) (Statement AH) of this part, reflecting Accounts 501 or Account 547 of Part 101 of this chapter;

(ii) "Purchased power expense" reported in § 35.13(h)(8)(i) (Statement AH) of this part, reflecting Account 555 of Part 101 of this chapter;

(iii) "Leased nuclear fuel expense" reported in § 35.13(h)(8)(i) (Statement AH) of this part, reflecting Account 513 of Part 101 of this chapter;

(iv) "Payroll taxes charged" reported in § 35.13(h)(11)(i) (Statement AK) of this part, reflecting Account 408.1 of Part 101 of this chapter;

(v) "Ad valorem taxes charged" reported in § 35.13(h)(11)(i) (Statement AK) of this part, reflecting Account 408.1 of Part 101 of this chapter;

(vi) "Revenue taxes charged" reported in § 35.13(h)(11)(i) (Statement AK) of this part, reflecting Account 408.1 of Part 101 of this chapter;

(vii) "Income taxes payable" reported in § 35.13(h)(36)(i) (Statement BK) of this part, reflecting Account 409.1 of Part 101 of this chapter;

(viii) "Labor expense" reported in § 35.13(h)(9) (Statement AI) of this part, reflecting appropriate accounts of Part 101 of this chapter; and

(ix) "Other operation and maintenance expenses" reported in § 35.13(h)(8) (Statement AH) of this part, not including nuclear fuel expenses for fuel owned by the utility, reflecting appropriate accounts of Part 101 of this chapter.

(4) "Net expense payment lag" means the period between the average time that the utility collects revenues for electric service to wholesale customers and the average time that it later pays the allowable expenses incurred and charged to such service, as calculated under paragraph (c)(3) of this section.

(5) "Net revenue receipt lag" means the period between the average time that the utility pays the allowable expenses incurred and charged to electric service provided to wholesale customers and the average time that it later collects revenues attributable to such service, as calculated under paragraph (c)(2) of this section.

(6) "Service period" means the time interval, such as 30 days for service rendered monthly, used by the utility to

measure service rendered to wholesale customers.

(c) *General rule*—(1) *Presumption of Zero Cash Working Capital Needed.* Except as provided under subparagraph (2) or (3), a filing utility will receive no cash working capital adjustment to its rate base.

(2) *Adjustment permitted*—(i) *Showing required.* A participant may file to provide the filing utility a cash working capital adjustment, as defined in paragraph (b)(2)(ii) of this section, only if such adjustment is supported and justified by a study that demonstrates, in accordance with § 35.13(h)(12)(ii) of this part, that the average number of days between the midpoint of the service period and the receipt of revenues in payment for service provided during that period, not including days accounted for through a customer late payment penalty, is at least 15 days greater than the average number of days between the midpoint of the service period and cash disbursements by the utility for allowable expenses to provide service during the service period.

(ii) *Addition to rate base.* If a filing utility or other participant demonstrates a qualifying net revenue receipt lag in accordance with this subparagraph, the rate base of the utility will be increased by an amount equal to the utility's total average uncollected revenues for an average service period minus total average allowable expenses that are unpaid for that period, in conformance with the conclusions of an acceptable study under § 35.13(h)(12)(ii) of this part.

(3) *Disallowance permitted*—(i) *Showing required.* A participant may file to obtain for the filing utility a cash working capital adjustment, as defined in paragraph (b)(2)(ii) of this section, only if such adjustment is supported and justified by a study that demonstrates, in accordance with § 35.13(h)(12)(ii) of this part, that the average number of days between the midpoint of the service period and cash disbursements by the utility to pay expenses for service during that period is at least 15 days greater than the average number of days between the midpoint of the service period and receipt of revenues in payment for service rendered during that period.

(ii) *Deductions from rate base.* If a participant demonstrates that a filing utility has a qualifying net expense payment lag in accordance with this subparagraph, the rate base of the utility will be reduced by an amount equal to the utility's total average allowable expenses that are unpaid for an average service period minus total average uncollected revenues for that period, in

conformance with the conclusions of an acceptable study under § 35.13(h)(12)(ii) of this part.

[FR Doc. 84-9551 Filed 4-10-84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 35

[Docket No. RM79-49-000]

Calculation of Cash Working Capital Allowance for Public Utilities; Withdrawal of Proposed Rulemaking and Termination of Rulemaking Docket

April 5, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of withdrawal of proposed rulemaking and termination of rulemaking docket.

SUMMARY: The Federal Regulatory Commission (Commission) is withdrawing the Notice of Proposed Rulemaking that it issued on June 7, 1979, proposing to establish a formula for calculating utilities' cash working capital allowances. (44 FR 33410, June 11, 1979). The proposed formula was intended to increase accuracy in calculating cash working capital allowances and thereby reduce litigation of this issue.

Since issuance of the 1979 proposal, the Commission has concluded that generally the impact of cash working capital needs on rates is relatively minor and usually does not justify expending time and funds to support a rate base adjustment. The 1979 proposed rule does not reflect this conclusion; it would require calculation of a utility's cash working capital requirements each time it filed a rate schedule. The Commission is therefore proposing, concurrently with the issuance of this notice (published elsewhere in this issue), a new proposed rule that would provide for rate base adjustments only when working cash needs would significantly affect revenue requirements and are demonstrated with reasonable accuracy. The new proposed rule is also intended to reduce litigation time and expense.

In view of its new rulemaking proceeding on the cash working capital issue in Docket No. RM84-9-000, the Commission is withdrawing its earlier proposed rulemaking in Docket No. RM79-49-000.

DATE: This withdrawal of proposed rulemaking is effective April 11, 1984.

FOR FURTHER INFORMATION CONTACT: Jack O. Kendall, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20541-3033, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

The Federal Energy Regulatory Commission (Commission) is withdrawing the Notice of Proposed Rulemaking that it issued on June 7, 1979,¹ proposing to establish a formula for calculating utilities' cash working capital allowances.²

The proposed rule in this docket would have abandoned the "45-day convention," the Commission's historical policy under which the time difference between the payment of current operating expenses incurred providing electric service and the collection of revenues for those services has been presumed to average one-eighth of a year, or 45 days.³ Under this policy, utilities generally have been permitted to include in test period rate base estimates cash working capital allowances equal to one-eighth of their annual operation and maintenance expenses.

The June 1979 proposed rule was issued because the 45-day convention did not accurately reflect the experience of utilities with respect to how varying expense payment patterns affected their need for working cash. The Commission also was concerned that litigation of the cash working capital issue, a minor component of utility revenue requirements, had substantially increased the expense of, and time consumed by, electric rate proceedings.

The 1979 proposed rule also was intended to provide a more uniform, formulaic method of determining utilities' cash working capital allowances based on analysis of six major expense items. Further, under the proposed rule the length of time that revenues needed to compensate a utility for expenses incurred to render service typically remain uncollected would have been presumed to be 40 days for all expense categories. In addition, the proposed rule also presumed the length of delay in paying certain expenses does not vary significantly from utility to utility.

After further consideration, the Commission has concluded that in only

¹ Calculation of Cash Working Capital Allowance for Electric Utilities [hereinafter cited as "the proposed rule"], Docket No. RM79-49-000, issued June 7, 1979, 44 FR 33410 (June 11, 1979); FERC Stats & Regs. (Proposed Regs. 1977-1981) ¶ 32,028.

² In general terms, the term "cash working capital", as it relates to wholesale electric rates, historically has referred to the amount of cash needed on hand by a public utility to pay its day-to-day operating expenses for the time period during which the utility has provided electric service to its customers and has not yet been fully paid for that service.

³ This method of approximating utility cash working capital needs was first enucleated in Interstate Power Company, 2 F.P.C. 71 (1939).

unusual circumstances does the size of a utility's revenue or expense lag justify expending time and funds to support including a cash working capital allowance in rate base. The Commission is therefore proposing a new proposed rule that it believes would be more accurate than the 45-day convention and would reflect the Commission's belief that utilities generally do not experience significant net revenue or expense lags for all major expense items, particularly if tax expenses are taken into account. Further, the proposal would require consistency in the preparation of studies submitted to the Commission to demonstrate that a significant net lag in revenue receipts or expense payments exists. The new proposal would promote these objectives by establishing a rebuttable presumption that the appropriate adjustment to test period rate base estimates to account for cash working capital is zero. The proposed rule would also recognize more expense items in prescribing how the presumption against any adjustment to rate base can be overcome.

Further consideration by the Commission of the cash working capital issue in electric ratemaking proceedings will be conducted in the new rulemaking proceeding in docket No. RM84-9-000. No further action will be undertaken pursuant to the June 1979 proposed rule. The Commission is therefore withdrawing that notice of proposed rulemaking and terminating Docket No. RM79-49-000 as of the date of issuance of this order.

(Administrative Procedure Act, 5 U.S.C. 551-557 (1976); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Exec. Order No. 12009, 3 CFR 142 (1978); Federal Power Act, as amended, 16 U.S.C. 291-828 (1976 & Supp. V 1981))

By direction of the Commission.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-9550 Filed 4-10-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 107

[Docket No. 83N-0270]

Nutrient Requirements for Infant Formulas

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to

revise the infant formula nutrient requirements of the Infant Formula Act of 1980, based on the 1983 recommendations of the Committee on Nutrition of the American Academy of Pediatrics (CON/AAP). In developing this proposal, FDA also considered the Codex Alimentarius Commission's "Recommended International Standard for Infant Formula" (Codex standard). This proposed regulation would ensure that infant formula products are adequate in meeting the normal infant's total nutritional needs.

DATE: Comments by June 11, 1984. Proposed effective date of the final rule is 180 days after its date of publication in the Federal Register. See "SUPPLEMENTARY INFORMATION" for further discussion of proposed effective date.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas Duy, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF-204), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3117.

SUPPLEMENTARY INFORMATION: The Infant Formula Act of 1980 (Pub. L. 96-359, 94 Stat. 1190) amended the Federal Food, Drug, and Cosmetic Act (the act) by establishing a new section 412 (21 U.S.C. 350a) pertaining to requirements for infant formulas. Section 412(g) of the act contains a list nutrients, along with minimum and maximum levels, that are required to be present in all infant formulas for normal, full-term infants. To keep pace with changing scientific and medical knowledge, the Secretary of Health and Human Services is authorized by section 412(a)(2) (A) and (B) of the act to revise by regulation the list of nutrients and nutrient levels.

The proposed rule set forth below would codify most of the nutrients and nutrient levels specified in section 412(g) of the act without change. It would revise the minimum levels for calcium and phosphorus, set maximum levels for iron and iodine, and establish the minimum level for niacin in units of niacin equivalents, rather than micrograms. It would also require that any added vitamin K be in the form of phyloquinone that is the only form of the vitamin permitted in foods. The proposal is based on the recommendations of CON/AAP, the Codex standard for infant formulas, and other sources.

I. Background

In 1967, CON/AAP published a statement entitled "Proposed Changes in Food and Drug Administration Regulations Concerning Formula Products and Vitamin-Mineral Dietary Supplements for Infants" in response to FDA's intention to revise its regulations governing the labeling of foods for special dietary use. The 1967 CON/AAP recommendations informed FDA of changing practices in infant feeding, new information on infant nutritional requirements, and technological advances in infant formula manufacturing. In its recommendations, CON/AAP used the average concentrations of nutrients in human milk that were known to provide good growth and development in normal full-term infants as its basis for estimating minimal nutrient needs of infants. The use of average nutrient concentrations in human milk was necessary because adequate studies were not available at that time to identify, in many instances, either optimal or safe minimal intakes of essential nutrients. The 1967 recommendations also declared that the profile of minimum nutrient levels should be applicable to both milk-based formulations and to formulations using alternate sources of protein (e.g., soya, meat).

FDA used the 1967 CON/AAP recommendations and testimony from public hearings held in 1968 and 1969 on foods for special dietary use (including infant foods) in revising its labeling regulation for infant foods, including infant formulas. The final regulation was published in the Federal Register of December 10, 1971 (36 FR 23553) and is currently codified at 21 CFR 105.65. Paragraphs (c), (d), and (e) of that section, which apply specifically to infant formulas, were superseded by the requirements of the Infant Formula Act of 1980, and FDA previously proposed to remove them from the regulation (48 FR 31880; July 12, 1983).

In 1976, the Codex Alimentarius Commission proposed an international standard for infant formula. The Codex standard is described in detail below. Also in 1976, CON/AAP revised its recommendations. Both the Codex standard and the CON/AAP recommendations reflected new information on infants' nutrient requirements, particularly on interactions between nutrients. These recommendations differed from each other only in minor aspects. The impetus behind the CON/AAP and the Codex recommendations was the growing industry trend of using vegetable protein

ingredients (to replace milk protein ingredients), which do not supply some of essential nutrients that are found in cow's milk, and the discovery of other nutrients necessary to meet the normal infant's total nutritional needs.

CON/AAP emphasized that its 1976 recommendations applied only to products "for normal infants," as distinguished from infants with special medical conditions (e.g., metabolic disorders, malabsorption syndromes, low birth weight). In comparison with products for normal, full-term infants, products designed for infants with special medical or dietary problems often have unusually low or high levels of some nutrients. The use of these special formulas by normal infants could result in malnutrition or other problems. CON/AAP recommended that separate requirements be established for products designed for infants with special medical problems.

The Infant Formula Act of 1980 recognizes that these specialty products cannot meet all of the requirements for formula products for normal, full-term infants, and therefore exempts specialty products from some of its requirements. In the Federal Register of July 12, 1983 (48 FR 31875), FDA published a proposal on "exempt infant formula", to establish the conditions under which such products would continue to be exempt, and quality control, nutrient, and labeling requirements for exempt infant formulas.

In 1976, Canada published a nutrient profile regulation for infant formulas that contains specifications for nutrient composition similar to those found in the Codex standard and the 1976 CON/AAP recommendations. FDA considered the Canadian regulation in the preparation of this proposal.

In late 1978, a manufacturer of soy protein-based infant formulas reformulated two of its products, inadvertently resulting in products containing an inadequate amount of chloride, an essential nutrient. By mid-1979, a substantial number of cases of hypochloremic metabolic alkalosis had been diagnosed in infants. This disease is characterized by an infant's failure to thrive. Many of these cases were associated with prolonged exclusive use of the reformulated brands of infant formula.

In response to the chloride deficient formula incident, FDA held an open public hearing on March 12, 1980, in Washington, DC. The public hearing was held to gather information and comments as to the adequacy of the current nutrient composition of infant formulas and whether revision of § 105.65 was necessary. FDA considered

the testimony and comments submitted at the public hearing in drafting this proposal.

FDA published in the Federal Register of March 18, 1980 (45 FR 17206), a statement of policy that the 1976 CON/AAP recommendations should serve as an interim guideline for infant formula manufacturers, packers, and distributors pending agency revision of § 105.65.

In response to the chloride deficient formula incident, Congress passed, and the President signed into law on September 26, 1980, the Infant Formula Act of 1980. The Infant Formula Act of 1980 provides the Secretary the authority to, among other things, revise that act's list of required nutrients and

nutrient levels. To carry out its responsibilities under that act, FDA analyzed various infant formula products and determined that a considerable variation in the levels of certain nutrients existed. FDA then contracted with CON/AAP to develop recommended ranges of nutrient levels. FDA intended to use the recommendations of CON/AAP to make any necessary adjustments to the nutrient requirements specified in the Infant Formula Act of 1980. CON/AAP submitted its recommendations to FDA on March 18, 1983.

The following table compares the 1983 CON/AAP recommended nutrient levels with those specified by the Infant Formula Act of 1980:

TABLE 1.—NUTRIENT LEVELS IN INFANT FORMULAS

Nutrient	Unit of measurement	Infant Formula Act		1983 CON/AAP ¹ recommendations	
		Minimum	Maximum	Minimum	Maximum
Protein	Grams	*1.8	4.5	*1.8	4.5
Fat	do	3.3	6.0	3.3	6.0
	Percent calories	30	54	30	54
Linoleic acid	Milligrams	300		300	
	Percent calories	2.7		2.7	
Vitamins:					
A	International units	250	750	250	750
D	do	40	100	40	100
E	do	*0.7		*0.7	
K	Micrograms	4.0		4.0	
Thiamine (Vitamin B ₁)	do	40		40	
Riboflavin (Vitamin B ₂)	do	60		60	
(Vitamin B ₆)	do	*35		*35	
(Vitamin B ₁₂)	do	0.15		0.15	
Niacin	do	250		250	
	(Milligram equivalents)			0.8	
Folic acid	Micrograms	4		4	
Pantothenic acid	do	300		300	
Biotin	do	*1.5		*1.5	
Vitamin C (Ascorbic acid)	do	8		8	
Choline	do	*7		*7	
Inositol	do	*4		*4	
Minerals:					
Calcium	do	*50		*60	
Phosphorus	do	*25		*30	
Magnesium	do	6		8	
Iron	do	0.15		0.15	2.5
Zinc	do	0.5		0.5	
Manganese	Micrograms	5		5	
Copper	do	60		60	
Iodine	do	5		5	75
Sodium	do	20	80	20	60
Potassium	do	80	200	80	200
Chloride	do	55	150	55	150

¹ Contract report to FDA March 1983; also see *Pediatrics*, 57:278-285, 1976.

* Protein quality shall be not less than 70 percent of casein (Infant Formula Act of 1980, CON/AAP, FDA). Lesser quality requires proportionately greater minimum amount of protein.

* At least 0.7 International Unit of vitamin E per gram of linoleic acid (or gram of polyunsaturated fatty acids, expressed as linoleic acid).

* At least 15 micrograms of Vitamin B₆ per gram of protein.

* Should be required for non-milk based formula; represents average level in milk-based formulas.

* Calcium/phosphorus ratio shall be not less than 1.1 and not more than 2.0.

FDA is responding to a citizen petition submitted by the Mead Johnson Research Center, Evansville, IN, requesting the addition of the nutrient inositol to infant formulas. Inositol is now a required nutrient under the Infant Formula Act of 1980 and therefore the question of adding inositol to infant formula is moot. FDA is not proposing

any revision of that requirement or the required minimum level of inositol.

II. Codex Standard

In 1976, the Food and Agriculture Organization/World Health Organization's (FAO/WHO) Codex Alimentarius Commission's Committee on Foods and Special Dietary Uses Proposed a "Recommended

International Standard for Infant Formula" (CAS/RS 72-1976) to member countries, including the United States, for acceptance. FAO/WHO jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The Codex standard for infant formula is as follows:

PART 1—RECOMMENDED INTERNATIONAL STANDARDS FOR FOODS FOR INFANTS AND CHILDREN

[CAC/RS 72-1976]

Recommended International Standard For Infant Formula

1. Scope

This standard applies to Infant Formula in liquid or powdered form intended for use, where necessary, as a substitute for human milk in meeting the

normal nutritional requirements of infants. It also provides a standard for formulae intended for infants with special nutritional requirements, except for certain provisions which must be modified to meet those special requirements.

2. Description

2.1 Infant Formula, when in liquid form, may be used either directly or diluted with water before feeding, as appropriate. In powdered form it requires water for preparation.

2.2 The product shall be nutritionally adequate to promote normal growth and development when used in accordance with its directions for use.

2.3 The product is so processed by physical means only and so packaged as to prevent spoilage and contamination under all normal conditions of handling,

storage and distribution in the country where the product is sold.

3. Definitions

3.1 The term "Infant" means a person not more than 12 months of age.

3.2 The term "Calorie" means a kilocalorie or "large calorie" (1 kilojoule is equivalent to 0.239 kilocalories).

4. Essential Composition and Quality Factors

4.1 Essential Composition

4.1.1 Infant Formula is a product based on milk of cows or other animals and/or on other edible constituents of animal, including fish, or plant origin, which have been proved to be suitable for infant feeding.

4.1.2 Infant Formula shall contain, per 100 available calories (or 100 kilojoules) of intake, the following minimum and maximum levels of vitamins, minerals in an available form, choline, protein, fat and linoleate:

	Amounts per 100 available calories		Amounts per 100 available kilojoules	
	Minimum	Maximum	Minimum	Maximum
(a) Vitamins other than vitamin E:				
Vitamin A.....	250 I.U. or 75 µg expressed as retinol.	500 I.U. or 150 µg expressed as retinol.	60 I.U. or 18 µg expressed as retinol.	120 I.U. or 37 µg expressed as retinol
Vitamin D.....	40 I.U.	80 I.U.	10 I.U.	19 I.U.
Ascorbic acid (vitamin C).....	8 mg	N.S. ¹	1.9 mg	N.S. ¹
Thiamine (vitamin B ₁).....	40 µg	N.S. ¹	10 µg	N.S. ¹
Riboflavin (vitamin B ₂).....	60 µg	N.S. ¹	14 µg	N.S. ¹
Nicotinamide.....	250 µg	N.S. ¹	60 µg	N.S. ¹
Vitamin B ₆	35 µg	N.S. ¹	9 µg	N.S. ¹
Folic acid.....	4 µg	N.S. ¹	1 µg	N.S. ¹
Pantothenic acid.....	300 µg	N.S. ¹	70 µg	N.S. ¹
Vitamin B ₁₂	0.15 µg	N.S. ¹	0.04 µg	N.S. ¹
Vitamin K.....	4 µg	N.S. ¹	1 µg	N.S. ¹
Biotin (vitamin H).....	1.5 µg	N.S. ¹	0.4 µg	N.S. ¹
(b) Vitamin E (α-tocopherol compounds).....	0.7 I.U./g linoleic acid ² , but in no case less than 0.7 I.U./100 available calories.	N.S. ¹	0.7 I.U./g linoleic acid ² , but in no case less than 0.15 I.U./100 available kilojoules.	N.S. ¹

¹ N.S. = Not specified.

² Formulae with a higher protein content than 1.8 g protein/100 Calories should contain a minimum of 15 µg Vitamin B₆ per gramme of protein.

³ Or per g polyunsaturated fatty acids, expressed as linoleic acid.

	Amounts per 100 available calories		Amounts per 100 available kilojoules	
	Minimum	Maximum	Minimum	Maximum
(c) Minerals:				
Sodium (Na).....	20 mg	60 mg	5 mg	15 mg
Potassium (K).....	80 mg	200 mg	20 mg	50 mg
Chloride (Cl).....	55 mg	150 mg	14 mg	35 mg
Calcium (Ca) ¹	50 mg	N.S. ²	12 mg	N.S. ²
Phosphorus (P) ²	25 mg	N.S. ²	6 mg	N.S. ²
Magnesium (Mg).....	6 mg	N.S. ²	1.4 mg	N.S. ²
Iron (Fe).....	1 mg ³	N.S. ²	0.25 mg ³	N.S. ²
Iron (Fe).....	0.15 mg	N.S. ²	0.04 mg	N.S. ²
Iodine (I).....	5 µg	N.S. ²	1.2 µg	N.S. ²
Copper (Cu).....	60 µg	N.S. ²	14 µg	N.S. ²
Zinc (Zn).....	0.5 mg	N.S. ²	0.12 mg	N.S. ²
Manganese (Mn).....	5 µg	N.S. ²	1.2 mg	N.S. ²
(d) Choline.....	7 mg	N.S. ²	1.7 mg	N.S. ²

(e) Protein:

(i) Shall not be less than 1.8 g per 100 available calories (or 0.43 g per 100 available kilojoules) of protein of nutritional quality equivalent to that of casein or a greater quantity of other protein in proportion to its biological value. The quality⁴ of the protein shall not be less than 85% of that of casein. The total quantity of protein shall not be more than 4 g per 100 available calories (or 0.86 g per 100 available kilojoules). The minimum value set for quality and the maximum for quantity of the protein may be modified by national authorities according to their own regulations and/or local conditions.

(ii) Isolated amino acids may be added to Infant Formula only to improve its nutritional value for infants. Essential amino acids may be added to improve protein quality, only in amounts necessary for that purpose. Only natural L forms of amino acids shall be used.

¹ The Ca:P ratio shall be not less than 1.2 and not more than 2.0.

² N.S. = Not specified.

³ See Section 10.1.6.

⁴ Protein quality shall be determined provisionally using the PER method as laid down in the section dealing with methods of analysis, it being understood that the suitability of the product for infant feeding in conformity with Section 2.2 of this Standard will have been established on the basis of adequate and appropriate tests in the light of current knowledge.

(f) **Fat and Linoleate.** The product shall contain linoleic acid (in the form of glycerides) at a level not less than 300

mg per 100 available Calories (or 70 mg per 100 available kilojoules) and fat at a level not less than 3.3 g and not more

than 6 g per 100 available Calories (or not less than 0.8 g and not more than 1.5 g per 100 available kilojoules).

4.2 Optional Ingredients

4.2.1 In addition to the vitamins and minerals listed under 4.1.2(a), (b) and (c), other nutrients may be added when required in order to provide nutrients ordinarily found in human milk and to ensure that the formulation is suitable as the sole source of nutrients of the infant.

4.2.2 The usefulness of these nutrients shall be scientifically shown.

4.2.3 When any of these nutrients is added, the formula shall contain significant amounts of these nutrients, based on levels in human milk.

4.3 Consistency and Particle Size.

When prepared according to the label directions for use, the product shall be free of lumps and of large, coarse particles and suitable for being fed through a soft rubber or plastic nipple.

4.4 Purity Requirements. All ingredients shall be clean, of good quality, safe and suitable for ingestion by infants. They shall conform with their normal quality requirements, such as colour, flavour and odour.

4.5 Specific Prohibition. The product and its components shall not have been treated by ionizing radiation.

5. Food Additives

The following additives are permitted in the preparation of Infant Formula, as described in Section 1 of this Standard, and with the restrictions stated below:

5.1 Thickening Agents	Maximum level in 100 ml of the ready-to-drink product
5.1.1 Guar gum.....	0.1 g in all types of Infant Formula
5.1.2 Locust bean gum ¹	0.1 g in all types of Infant Formula
5.1 Thickening Agents (cont.)	Maximum level in 100 ml of the ready-to-drink product (cont.)
5.1.3 Distarch phosphate	0.5 g singly or in combination in soy-based infant formulae only
5.1.4 Acetylated distarch phosphate	2.5 g singly or in combination in hydrolyzed protein and/or amino acid-based infant formulae only
5.1.5 Phosphated distarch phosphate	
5.1.6 Hydroxypropyl starch	
5.1 Thickening Agents (cont.)	Maximum level in 100 ml of the ready-to-drink product (cont.)
5.1.7 Carrageenan	0.03 g in regular, milk- and soy-based liquid infant formulae only 0.1 g in hydrolyzed protein and/or amino acid-based liquid infant formulae only
5.2 Emulsifiers	Maximum level in 100 ml of the ready-to-drink product

5.2.1 Lecithin..... 0.5 g in all types of Infant Formulae

5.2.3 Mono- and diglycerides. 0.4 g in all types of Infant Formulae

5.3 pH-Adjusting Agents	Maximum level in 100 ml of the ready-to-drink product
5.3.1 Sodium hydrogen carbonate	Limited by good manufacturing practice and within the limits for Na and K in Section 4.1.2(c) in all types of Infant Formulae
5.3.2 Sodium carbonate	
5.3.3 Potassium hydrogen carbonate	
5.3.4 Potassium carbonate	
5.3.5 Sodium citrate	
5.3.6 Potassium citrate	
5.3 pH-Adjusting agents (cont.)	Maximum level in 100 ml of the ready-to-drink product (cont.)
5.3.7 L(+) Lactic acid	Limited by good manufacturing practice in all types of Infant Formulae
5.3.8 L(+) Lactic acid producing cultures	
5.3.9 Citric acid	
5.4 Antioxidants	Maximum level in 100 ml of the ready-to-drink product
5.4.1 Mixed tocopherols concentrate.	1 mg in all types of Infant Formulae
5.4.2 L-Ascorbyl palmitate	1 mg in all types of Infant Formulae

¹Temporarily endorsed.

6. Contaminants

6.1 Pesticide Residues. The product shall be prepared with special care under good manufacturing practices, so that residues of those pesticides which may be required in the production, storage or processing of the raw materials or the finished food ingredient do not remain, or, if technically unavoidable, are reduced to the maximum extent possible.

6.2 Other Contaminants. The product shall be free from residues of hormones and antibiotics, as determined by means of agreed methods of analysis, and practically free from other contaminants, especially pharmacologically active substances.

7. Hygiene

7.1 To the extent possible in good manufacturing practice, the product shall be free from objectionable matter.

7.2 When tested by appropriate methods of sampling and examination, the product:

(a) shall be free from pathogenic microorganisms;

(b) shall not contain any substances originating from microorganisms in amounts which may represent a hazard to health; and

(c) shall not contain any other poisonous or deleterious substances in amounts which may represent a hazard to health.

7.3 The product shall be prepared, packed, and held under sanitary conditions and should comply with the

Code of Hygienic Practice for Foods for Infants and Children¹.

8. Packaging

8.1 The product shall be packed in containers which will safeguard the hygienic and other qualities of the food. When in liquid form, the product shall be packed in hermetically sealed containers, nitrogen and carbon dioxide may be used as packing media.

8.2 The containers, including packaging materials, shall be made only of substances which are safe and suitable for their intended uses. Where the Codex Alimentarius Commission has established a standard for any such substance used as packaging materials, that standard shall apply.

9. Fill of Container

In the case of products in ready-to-eat form, the fill of container shall be:

- (i) Not less than 80% v/v for products weighing less than 150 g (5 oz.);
- (ii) Not less than 85% v/v for products in the weight range 150-250 g (5-8 oz.); and

(iii) Not less than 90% v/v for products weighing more than 250 g (8 oz.) of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20° C which the sealed container will hold when completely filled.

10. Labelling

In addition to Sections 1, 2, 4 and 6 of the *Recommended International General Standard for the Labelling of Prepackaged Foods* (Ref. CAC/RS 1-1969), the following specific provisions apply:

10.1 The Name of the Food.

10.1.1 The name of the product shall be either "Infant Formula" or any appropriate designation indicating the true nature of the product, in accordance with national usage.

10.1.2 The sources of protein in the product shall be clearly shown on the label.

10.1.3 If 90% or more of the protein is derived from whole or skim milk, as such or with minor modification, the product may be labelled "Infant Formula based on Milk".

10.1.4 A product which contains neither milk nor any milk derivative may be labelled "contains no milk or milk products" or an equivalent phrase.

10.1.5 A product intended for infants with special nutritional requirements shall be labelled to show clearly the special requirement for which the formula is to be used and the dietary property or properties on which this is based.

¹ Being elaborated by the Codex Alimentarius Commission.

10.1.6 Products containing not less than 1 mg Iron (Fe)/100 available calories shall be labelled "Infant Formula with Iron".

10.2 List of Ingredients.

10.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion except that in the case of added vitamins and added minerals, these ingredients shall be arranged as separate groups for vitamins and minerals, respectively, and within these groups the vitamins and minerals need not be listed in descending order of proportion.

10.2.2 The specific name shall be declared for ingredients of animal or plant origin and for food additives. In addition, appropriate class names for these ingredients and additives may be included on the label.

10.3 Declaration of Nutritive Value. The declaration of nutrition information shall contain the following information in the following order:

(a) The amount of energy, expressed in Calories (kcal) and/or kilojoules (kJ), and the number of grammes of protein, carbohydrate and fat per 100 grammes of the food as sold as well as per specified quantity of the food as suggested for consumption;

(b) the total quantity of each vitamin, mineral, choline and any optional ingredient as listed in paragraphs 4.1.2 and 4.2 of this Standard per 100 grammes of the food as sold as well as per specified quantity of the food as suggested for consumption. In addition, the declaration per 100 calories (or per 100 kilojoules) is permitted.

10.4 Net Contents The net contents of Infant Formula shall be declared by volume if it is in liquid form, or by weight if it is in powdered form. The declaration of weight or volume shall be made in either the metric ("Système international" units) or in a system of measurement as required by the country in which the food is sold, or in both systems.

10.5 Name and Address. The name and address of the manufacturer, packer, distributor, importer, exports or vendor of the food shall be declared.

10.6 Country of Origin.

10.6.1 The country of origin of the food shall be declared if its omission would mislead or deceive the consumer.

10.6.2 When the food undergoes processing in a second country, which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purpose of labelling.

10.7 Lot Identification. Each container shall be embossed or otherwise permanently marked, in code

or in clear, to identify the producing factory and the lot.

10.8 Date Marking and Storage Instructions.

10.8.1 The date of minimum durability of the food shall be declared in clear.

10.8.2 Storage instructions shall appear on the label or on the accompanying leaflet.

10.9 Information for Utilization.

10.9.1 Directions as to the preparation and use of the food, and its storage and keeping after the container has been opened shall appear on the label or on the accompanying leaflet.

10.9.2 Information that infants over six months of age should receive supplemental foods in addition to the formula shall appear on the label.

10.10 Optional Labelling. An indication that Infant Formula is intended to replace or supplement breast feeding, where breast feeding is not possible or is insufficient, may be given on the label.

As a member of the Codex Alimentarius Commission, the United States is obligated to consider all Codex standards for acceptance. A participating country that concludes that it will not accept a Codex standard is supposed to inform the Codex Alimentarius Commission of this fact, the reasons for its decision, the manner in which foods within the scope of the Codex standard that are marketed in that country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce. The United States can accept some or all of the provisions of a Codex standard by establishing a standard of identity under the authority of section 401 of the act (21 U.S.C. 341) or by revising an existing standard of identity to incorporate the Codex provisions.

FDA is not proposing to establish a standard of identity for infant formulas. The Codex standard for infant formula includes, in addition to nutrient specifications, requirements concerning food additives, contaminants, current good manufacturing practice, labeling, and other subjects. The Codex standard's nutrient specifications are similar to those of the Infant Formula Act of 1980 and those recommended by CON/AAP. FDA considered the Codex nutrient specifications in developing the proposal set forth below. Because the Infant Formula Act of 1980 provides express authority for revision of its list of required nutrients and nutrient levels, FDA proposes to promulgate a nutrient specifications regulation under the authority of the Infant Formula Act of

1980, and proposes not to establish a standard of identity under section 401 of the act. FDA believes that other subjects covered by the Codex standard are adequately regulated by existing or already proposed regulations under the act, including but not limited to the infant formula quality control procedures regulations (21 CFR Part 106) and proposed infant formula labeling requirements (48 FR 31880; July 12, 1983). For these reasons, FDA is not proposing to adopt the Codex standard under section 401 of the act. FDA will inform the Codex Alimentarius Commission of that decision, and that an imported food that complies with the requirements of the Codex standard may move freely in commerce in this country providing it complies with applicable U.S. laws and regulations.

III. Nutrient Specifications

FDA particularly requests comments with supporting data on the following proposed revisions of the nutrient specifications of the Infant Formula Act of 1980. All nutrient specifications are expressed as amounts per 100 available kilocalories of infant formula, prepared for consumption, as recommended by Codex and CON/AAP. All documents and other information and data relied upon by the agency in developing these proposed revisions are on file and available to the public at the Dockets Management Branch (address above).

1. *Niacin*. CON/AAP recommends that niacin content be declared as milligram equivalents of total niacin activity, instead of as only the content of preformed niacin, and that a minimum level of 0.8 milligram equivalents of niacin activity per 100 kilocalories be required. The Infant Formula Act of 1980 provides for a minimum niacin level of 250 micrograms per 100 kilocalories.

The agency proposes to establish a minimum level of niacin activity of 0.8 milligram equivalents per 100 kilocalories as recommended by CON/AAP. This minimum level is also consistent with the National Academy of Sciences' recommended daily allowance of 5 milligram niacin equivalents for an infant consuming 700 kilocalories, the average caloric content of one liter of infant formula.

The expression of niacin activity in terms of milligram equivalents reflects the fact that niacin activity for human beings is obtained in two ways—from preformed niacin (nicotinic acid and nicotinamide), and from the conversion of tryptophan (an amino acid found in protein) to niacin. One milligram equivalent of niacin equals 60 milligrams of tryptophan.

The 1983 CON/AAP recommendation for a minimum level of niacin activity of 0.8 milligram equivalents per 100 kilocalories reflects a sum of the two sources of niacin activity in an infant's diet. On the other hand, a minimum level of 250 micrograms of niacin per 100 kilocalories reflects only the contribution from preformed niacin. Because varying protein sources and levels can alter the amount of niacin activity from the conversion of tryptophan in infant formula, it is necessary to establish a minimum level of total niacin activity in milligram equivalents so that adjustments in added preformed niacin can be made to ensure that the minimum level of total niacin activity is met.

2. *Calcium and phosphorus.* CON/AAP recommends a minimum level of 60 milligrams per 100 kilocalories for calcium and 30 milligrams per 100 kilocalories for phosphorus. The Infant Formula Act of 1980 provides for minimum levels of 50 milligrams per 100 kilocalories for calcium and 25 milligrams per 100 kilocalories for phosphorus.

The agency is proposing to adopt the CON/AAP minimum levels for calcium and phosphorus. CON/AAP stated that these levels are the lowest amounts now available in infant formulas, and that "no data are available for formula providing a lower intake."

3. *Iron.* CON/AAP recommends a maximum level of iron of 2.5 milligrams per 100 kilocalories. The Infant Formula Act of 1980 does not provide for a maximum level for iron.

The agency proposes to adopt the CON/AAP maximum level for iron. FDA shares CON/AAP's concern that levels of iron higher than 2.5 milligrams per 100 kilocalories in infant formulas may cause gastrointestinal or other complications in the infant.

4. *Iodine.* CON/AAP recommends a maximum level of iodine of 75 micrograms per 100 kilocalories. The Infant Formula Act of 1980 does not provide for a maximum level for iodine.

The agency proposes to adopt the CON/AAP maximum level for iodine. FDA shares CON/AAP's concern that levels of iodine higher than 75 micrograms per 100 kilocalories in infant formulas may cause adverse effects.

Testimony from infant formula manufacturers at the March 1980 public hearing on infant formula composition pointed out the milk produced in the United States provided iodine at levels significantly higher than dietary requirements. The testimony also indicated that there were no practical means then available for reducing

iodine levels in milk. Since the late 1970's, however, programs have been implemented that have reduced the iodine levels in milk. In 1981, the agency analyzed many samples contained less than 75 micrograms of iodine per 100 kilocalories. In 1982 and 1983, the agency inspected all infant formula manufacturing plants in the United States. Although records of iodine levels were not obtained at all plants, all records reviewed indicated iodine levels below 75 micrograms per 100 kilocalories. The agency requests comments and data on the levels of iodine present in the milk supplies used by infant formula manufacturers, if such manufacturers believe that they cannot routinely meet the 75 micrograms per 100 kilocalorie maximum level.

5. *Vitamin K.* The agency has stated in the *Federal Register* of May 28, 1975 (40 FR 23244 at 23248) that, due to its possible toxic effects, the synthetic provitamin form of vitamin K (menadione) should be an ingredient only in prescription products. Vitamin K₁ (phyloquinone), which occurs naturally in green plants, is the only form of the vitamin that should be added to food. CON/AAP has not made any recommendations concerning the form of vitamin K.

FDA proposes in § 107.100(c) that any added vitamin K shall be in the form of phyloquinone.

IV. Proposed Effective Date

Because of the importance of infant formula and the health and safety issues, the agency proposes that any final rule that may issue based upon this proposal become effective 180 days after its date of publication in the *Federal Register*. The final rule would apply to affected products initially introduced or initially delivered for introduction into interstate commerce.

V. Economic Impact

In accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601), FDA has examined the economic effect of a final rule based on this proposed rule. Currently, there are five primary manufacturers in the United States that manufacture and package infant formulas for distribution under their own name and five manufacturers that manufacture or package infant formulas on a contract basis for the five primary manufacturers. Two of the five primary manufacturers control 85 percent of the market. The other three primary manufacturers are therefore relatively small manufacturers in this market. The agency has determined that each of the proposed nutrient requirements is either

already being met by the industry and/or will require only minor changes that will impose little or no costs on manufacturers. Therefore, the final rule, if promulgated, will not be a major rule as defined by Executive Order 12291, and the agency certifies that it would not have a significant economic impact on a substantial number of small entities.

This proposed rule, along with the previously published final rule on infant formula quality control procedures and the two proposed rules on infant formula labeling and exempt infant formula, is part of FDA's effort to implement the Infant Formula Act of 1980. The agency has considered the cumulative economic effects of these regulations and has concluded that, taken together, they would not constitute a major rule under any of the criteria specified by Executive Order 12291. The agency has also determined that, taken together, they would not have a significant economic impact on a substantial number of small entities.

The agency has considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's environmental assessment and finding of no significant impact may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 107

Food labeling, Infant foods, Nutrient requirements.

Therefore, under the Federal Food Drug, and Cosmetic Act (secs. 201(aa), 412, 701(a), 52 Stat. 1055, 94 Stat. 1190 (21 U.S.C. 321(aa), 350a, 371(a))) and under 21 CFR 5.11, it is proposed that Part 107 (proposed in the *Federal Register* of July 12, 1983 (48 FR 31875)) be amended by adding new Subpart D, to read as follows:

PART 107—INFANT FORMULA

* * * * *

Subpart D—Nutrient Requirements

§ 107.100 Nutrient specifications.

(a) An infant formula shall contain the following nutrients at a level not less than the minimum level specified and not more than the maximum level specified for each 100 kilocalories of the infant formula in the form prepared for consumption as directed on the container:

Nutrients	Unit of measurement	Minimum level	Maximum level
Protein	Grams	1.8	4.5
Fat	do	3.2	6.0
Linoleic acid	Percent calories	30	54
	Milligrams	300	
	Percent calories	2.7	
Vitamins:			
A	International units	250	750
D	do	40	100
E	do	0.7	
K	Micrograms	4	
Thiamine (vitamin B ₁)	do	40	
Riboflavin (vitamin B ₂)	do	60	
Vitamin B ₆	do	35	
Vitamin B ₁₂	do	0.15	
Niacin ¹	Milligram equivalents ²	0.8	
Folic acid (folacin)	Micrograms	4	
Pantothenic acid	do	300	
Biotin ³	do	1.5	
Vitamin C (ascorbic acid)	Milligrams	8	
Choline ⁴	do	7	
Inositol ⁵	do	4	
Minerals:			
Calcium	do	60	
Phosphorus	do	30	
Magnesium	do	6	
Iron	do	0.15	2.5
Zinc	do	0.5	
Manganese	Micrograms	5	
Copper	do	60	
Iodine	do	5	75
Sodium	Milligrams	20	60
Potassium	do	80	200
Chloride	do	55	150

¹ The generic term "niacin" includes niacin (nicotinic acid) and niacinamide (nicotinamide).

² One milligram niacin equivalent equals 60 milligrams of tryptophan.

³ Required only for non-milk-based infant formulas.

In addition to the specifications established in the table in this paragraph for vitamins and minerals, the following also apply:

(b) Vitamin E shall be present at a level of at least 0.7 International Unit of Vitamin E per gram of linoleic acid.

(c) Any vitamin K added shall be in the form of phyloquinone.

(d) Vitamin B₆ shall be present at a level of at least 15 micrograms of vitamin B₆ for each gram of protein in excess of 1.8 grams of protein per 100 kilocalories of infant formula in the form prepared for consumption as directed on the container.

(e) The ratio of calcium to phosphorus in infant formula in the form prepared for consumption as directed on the container shall be no less than 1.1 and not more than 2.0.

(f) Protein shall be present in an amount not to exceed 4.5 grams per 100 kilocalories regardless of quality, and not less than 1.8 grams per 100 kilocalories of infant formula in the form prepared for consumption as directed on the container when its biological quality is equivalent to or better than that of casein. If the biological quality of the protein is less than that of casein, the minimum amount of protein shall be increased proportionately to

compensate for its lower biological quality. For example, an infant formula containing protein with a biological quality of 75 percent of casein shall contain at least 2.4 grams of protein (1.8/0.75). No protein with a biological quality less than 70 percent of casein shall be used.

Interested persons may, on or before June 11, 1984 submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-82, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

March 21, 1984.

[FR Doc. 84-9171 Filed 4-10-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Public Comment and Opportunity for Public Hearing on Modification to the Pennsylvania Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by the Commonwealth of Pennsylvania as a modification to the Pennsylvania Permanent Regulatory Program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to the State's blaster training provisions.

This notice sets forth the times and locations that the Pennsylvania program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments

on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments not received on or before 4:00 p.m., May 11, 1984 will not necessarily be considered.

If requested, a public hearing on the proposed modifications will be held on May 7, 1984, beginning at 10:00 a.m. at the location shown below under **ADDRESSES**.

ADDRESSES: Written comments should be mailed or hand delivered to: Robert Biggi, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101.

If a public hearing is held its location will be at: The Holiday Inn, 5401 Carlisle Pike, Mechanicsburg, Pennsylvania 17055.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Pennsylvania program, the proposed modifications to the program, a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM offices and the office of the State regulatory listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101.

Office of Surface Mining, Reclamation and Enforcement, 1100 L Street NW., Washington, D.C. 20240

Pennsylvania Department of Environmental Resources, Third and Locust Streets, Harrisburg, Pennsylvania 17120.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than Harrisburg, Pennsylvania, will not necessarily be considered and included in the Administrative Record for this final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the close of business May 7, 1984. If no one requests to comment, a public hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM office listed in **ADDRESSES** by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Pennsylvania State Program

On February 29, 1980, the Secretary of the Interior received a proposed regulatory program from the State of Pennsylvania. On October 22, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary disapproved the Pennsylvania program. The State resubmitted its program on January 25, 1982, and subsequently the Secretary approved the program subject to the correction of minor deficiencies. Information pertinent to the general background, revisions, modification, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in

the July 30, 1982 Federal Register notice (47 FR 33050).

III. Supplementary Information

On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter M (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after approval of a State program or within 12 months after publication date of OSM's rule at 30 CFR Part 850, whichever is later. In the case of Pennsylvania's program, the applicable date is 12 months after the publication date of OSM's rule, or March 4, 1984.

IV. Submission of Program Amendment

By a letter dated March 2, 1984, Pennsylvania submitted to OSM pursuant to 30 CFR 732.17, a revision to its approved program pertaining to blaster training and certification.

In the amendment, Pennsylvania proposes to amend its approved program by supplementing its regulations (Title 25 Chapters 86, 87, 209, 210, and 211) with the following additional documents and material: (1) "Application for Examination and Blaster's License," (2) "Requirements for a Blaster's License," (3) "Notice of Blaster Training and License examination," (4) "Outline of the Blaster Training Course," (5) instructional information distributed at training courses and (6) "Notice of Refresher Courses."

Therefore, the Director is seeking public comment on the adequacy of the proposed program amendment. If approved, the amendment will become part of the Pennsylvania program.

V. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is

exempt from preparation of a regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: April 5, 1984.

Carson W. Culp,

Acting Director, Office of Surface Mining.

[FR Doc. 84-9855 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY**Customs Service****31 CFR Part 1****Privacy Act of 1974: Exempting a System of Records From Certain Requirements**

AGENCY: Operational Analysis Staff, New York Region, Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The Department of Treasury regulations relating to certain exemptions to provisions of the Privacy Act of 1974, 5 U.S.C. 552a, are proposed to be amended. This amendment proposes to add the United States Customs Service system of records entitled "Customs Automated Licensing Information System (CALIS)" to those systems of records listed in 31 CFR 1.36. The purpose of the exemptions is to maintain the confidentiality of investigative materials compiled for law enforcement purposes.

DATES: Comments must be received on or before May 11, 1984.

ADDRESSES: Comments should be sent to: Disclosure Law Branch, Regulations Control and Disclosure Law Division, United States Customs Service, 1301

Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:
David Dyregrov ((202) 566-8881).

SUPPLEMENTARY INFORMATION: The Privacy Act System of Records entitled, "Treasury/Customs 00.287—Customs Automated Licensing Information System (CALIS)" is proposed to be exempt in accordance with sections (j)(2) and (k)(2) of the Privacy Act of 1984. The purpose of the exemptions is to maintain the confidentiality of investigative materials compiled for law enforcement purposes. This system of records contains information relating to pending, active, and closed files on customhouse brokers, Customs bonded cartmen and lightermen, bonded warehouses and container stations. Sources of information include existing Department and Customs administrative and investigative records and other investigatory resources.

The system of records is maintained in the New York office of the U.S. Customs Service. The information in this system is extracted from other records such as Reports of Investigation; Regulatory Audit reports; Search, Arrest, and Seizure Reports; and various types of internal Government memoranda containing related business information. This includes information obtained from informants, Narcotic and Dangerous Drug Intelligence System (NADDIS) records and other investigatory resources. Centralizing the records brings information together making it significant when viewed in the context of a particular firm's history and performance in other areas. The principal function of the unit maintaining the system relates to the enforcement of criminal laws. For this reason the (j)(2) exemption is required in addition to the (k)(2).

The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G) and (H), (e) (5) and (8), (f) and (g). Access to records maintained under (j)(2) will be granted if disclosure does not interfere with a significant agency interest. Since exemption from access under (j)(2) is only available for information compiled for specific criminal law enforcement purposes listed in the exemption, other information is either not exempt at all or only subject to exemption under (k)(2).

Exemptions from particular subsections are justified for the following reasons:

(1) From paragraph (c)(3) because the release of accounting disclosures would place the subject of an investigation on notice that an agency is conducting an

investigation. Appropriate measures could then be taken to avoid detection.

(2) From paragraph (c)(4), (d), (e)(4) (G), and (H), (f) and (g) because these provisions concern individual access to records and granting access might compromise ongoing investigations. In addition, granting access to open or closed investigative files might reveal investigatory techniques and confidential informants, and invade the privacy of individuals who provide information in connection with a particular investigation.

(3) From paragraph (e)(1) because information received in the course of an investigation may involve violations of laws under other jurisdictions, such as state or local laws or those under the federal agencies. In addition, it may not be immediately determined whether information is relevant and necessary, particularly in the early stages of an investigation.

(4) From paragraph (e)(2) because collecting information from the subject of criminal investigations would thwart the investigation by placing the subject on notice.

(5) From paragraph (e)(3) because supplying an individual with a statement of the intended use of the requested information could compromise the existence of a confidential investigation, and may inhibit the individual's cooperation.

(6) From paragraph (e)(5) because application of this provision would seriously restrict the necessary flow of information between the Customs Service and other law enforcement agencies and hamper the conduct of thorough investigations. Information that may initially appear to be inaccurate, irrelevant, untimely, or incomplete may, when gathered, grouped, and evaluated with other available information, become more pertinent as an investigation progresses. Application of this provision could seriously handicap criminal investigators.

(7) From paragraph (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigatory techniques, procedures and the existence of confidential investigations.

Executive Order 12291

This rule is not classified as a "major rule" as defined by section 1(b) of E.O. 12991, and therefore does not require a regulatory impact analysis.

Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-

354, 94 Stat. 1164, 5 U.S.C. 601-612), it has been determined that this proposed rule does not have significant economic impact on a substantial number of small entities.

List of Subjects in 31 CFR Part 1

Privacy.

Dated: April 2, 1984.

David E. Pickford,
Acting Assistant Secretary (Administration).

§ 1.36 [Amended]

Amend § 1.36 under the heading United States Customs Service by adding to the list of exempt systems following parts a.1 and b.1, in alphabetical order, the record titled, "Customs Automated Licensing Information"

[FR Doc. 84-0895 Filed 4-10-84; 8:45 am]

BILLING CODE 4820-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2562-5]

Illinois: Approval and Promulgation of Implementation Plans

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing to rulemake on a revision to the Illinois State Implementation Plan (SIP) for Sulfur Dioxide (SO₂). The revision pertains to the incorporation of a portion of Illinois Pollution Control Board (IPCB) Rule 204(f), as it applies to sources which are located in the Peoria major metropolitan area (Peoria and Tazewell Counties), with one exception as described below. USEPA's action is based upon a revision request that was submitted by the State to satisfy the requirements of section 110 and Part D of the Clean Air Act (Act).

DATE: Comments on this revision and on the proposed USEPA action must be received by May 11, 1984.

ADDRESS: Copies of the SIP revision are available for review at the following addresses. (It is recommended that you telephone Randolph O. Cano, at (312) 886-6035, before visiting the Region V office.)

U.S. Environmental Protection Agency,
Region V, Air and Radiation Branch,
230 South Dearborn Street, Chicago,
Illinois 60604

Illinois Environmental Protection
Agency, Division of Air Pollution

Control, 2200 Churchill Road,
Springfield, Illinois 60126.

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:

Randolph O. Cano, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: USEPA

approved Illinois Rule 204(c)(1)(A) on May 31, 1972 (37 FR 10861). This rule established a 1.8 lbs SO₂/MMBTU emission limit for existing fuel combustion sources in the Peoria, East St. Louis and Chicago major metropolitan areas. On September 27, 1978, the Illinois Appellate Court vacated Illinois Rule 204(c)(1)(A), among others, on procedural grounds. In response, USEPA issued a notice of SIP inadequacy to Illinois per section 110(a)(2)(H) of the Act on July 12, 1979 (44 FR 44723) because of the lack of enforceable measures at the State level for sources subject to invalidated Rule 204(c)(1)(A).

At that time, USEPA interpreted Rule 204(c)(1)(A) as being enforceable at the federal level. However, on August 30, 1983, the U.S. Court of Appeals for the Seventh Circuit (*Sierra Club v. Indiana-Kentucky Electric Corp.*, 716 F.2d 1145) ruled that a federal court may not enforce a federally-approved implementation plan provision that was, thereafter, invalidated by a court of the adopting State on State law procedural grounds. Consequently, federally-approved Rule 204(c)(1)(A) cannot be interpreted as enforceable at the federal level.

On February 24, 1983, the IPCB approved Order R80-22 which amends Sections (a) through (i) of Illinois Rule 204. This Order reestablished identical emission limits for most of the sources previously subject to Rule 204(c)(1)(A), which is now identified as Rule 204(f). Rule 204(f)(1) grants specific exemptions from Rule 204(f) for sources in Kankakee and McHenry Counties, and Rule 204(f)(2) establishes a higher SO₂ limit for existing industrial sources located in the Peoria metropolitan area that are not equipped with flue gas desulfurization systems as of December 1, 1980. Today's notice only proposes to approve Rule 204(f) as it applies to a 1.8 lb/MMBTU limitation on sources in Peoria and Tazewell Counties. Subsequent rulemaking will address the exceptions contained in Rule 204(f)(1) and 204(f)(2).

On January 30, 1984, Illinois submitted Rule 204(f) per Board Order R80-22, as it applies to sources in the Peoria area, as a revision to the Illinois SO₂ SIP. Illinois Rule 204(f) as contained in R80-22 reads as follows:

Rule 204—Sulfur Limitations

(f) Existing Fuel Combusting Sources Located in the Chicago, St. Louis (Illinois) and Peoria Major Metropolitan Areas.

Except as otherwise provided for in this subsection, no person shall cause or allow the emission of sulfur dioxide into the atmosphere in any one hour period from any existing fuel combustion source burning solid fuel exclusively located in the Chicago, St. Louis (Illinois) and Peoria major metropolitan areas to exceed 1.8 pounds of sulfur dioxide per million British thermal unit (Btu) of actual heat input on or after (the effective date of this Rule).

The above Rule 204(f) establishes SO₂ emission limits identical to those previously approved by USEPA for all major SO₂ sources in the Peoria area, with the exception of the limits for existing industrial sources which are contained in Rule 204(f)(2). Illinois has provided air quality modeling analyses that are consistent with USEPA modeling guidelines, and that demonstrate that the 1.8 lbs/MMBTU SO₂ emission limits in Rule 204(f) do not cause or contribute to violations of the SO₂ NAAQS in Peoria and Tazewell Counties, except for Caterpillar Tractor's Mapleton and East Peoria facilities. The modeled violations near the Caterpillar Tractor plants are dominated by the impact from the Caterpillar plants on hilly terrain features in the area. A more complete discussion of the available modeling analyses is contained in the technical support document for the proposed redesignation of five townships (dated June 2, 1983) and in the September 1, 1983, Notice of Proposed Rulemaking (47 FR 39655), which are available for inspection at the Region V office listed in the front of this notice.

USEPA proposes approval of the incorporation of IPCB Rule 204(f), as it applies to sources in Peoria and Tazewell Counties, with the exception of the Caterpillar Tractor facilities noted above, into the Illinois SIP. USEPA will propose action on Rule 204(f) as it applies to the Chicago and East St. Louis metropolitan areas in a later rulemaking action.

USEPA is taking no action at this time on the exceptions contained in Rule 204(f)(1) and (2), on new Rule 204(f) as it applies to Caterpillar Tractor's Mapleton and East Peoria plants, and as Rule 204(f) applies to sources in the Chicago and East St. Louis areas. Public comment is invited on USEPA's

proposed rulemaking action on IPCB Rule 204(f). Public comments received by the date specified above will be considered in the development of USEPA's final rulemaking.

Under 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to USEPA, and any USEPA response, are available for public inspection at the USEPA Region V office listed above.

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110, 172 and 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a))

Dated: February 1, 1984.

Charles H. Sutfin

Acting Regional Administrator.

[FR Doc. 84-9365 Filed 4-10-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-172A, Advance Notice]

Marking Owner Symbols on Compressed Gas Cylinders

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Advance Notice of proposed rulemaking.

SUMMARY: The Compressed Gas Association (CGA) has petitioned for a revision to 49 CFR 173.34(c)(1) that would prohibit display of more than one owner symbol on a compressed gas cylinder and prohibit removal or change of an owner symbol except by an owner or with the owner's written permission. CGA has also requested the addition of a note making reference to CGA Pamphlet C-16. The purpose of this Advance Notice of Proposed Rulemaking is to solicit comments on the merits of the CGA petition.

DATES: Comments must be received on or before May 23, 1984.

ADDRESS COMMENTS TO: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that the docket number be identified and that five copies be submitted. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. Public Dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except holidays. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card.

FOR FURTHER INFORMATION CONTACT: Lee Jackson, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, (202) 426-2075.

SUPPLEMENTARY INFORMATION: By a petition dated December 15, 1982, CGA requested a revision to an amendment published under Docket HM-172 revising § 173.34, *inter alia* subparagraph (c)(1) of that section (Amdt. 173-153; 47 FR 16183). Most of the petition is quoted as follows:

Proposed Revision. The Compressed Gas Association (CGA) requests revision of 49 CFR 173.34(c)(1) as amended, to include the following italicized language:

(1) Additional information such as owner symbols, not affecting the markings prescribed in the applicable cylinder specification, may be placed on the cylinder. Only one owner symbol may be displayed on each cylinder. Such symbols may be removed or changed only by the owner or with the owner's written permission. No identification may be made in the sidewall of the cylinder unless specifically permitted in the applicable specification.

Note.—For the purpose of avoiding duplicate owner symbols, the Compressed Gas Association maintains a registry of such symbols. See CGA Pamphlet C-18.

CGA has a vital interest in maintaining a registry of owner symbols. As phrased, the Note following the revised section would simply advise regulated parties of the existence of the registry, and would inform them of our intention to avoid confusing duplication of symbols by different owners.

Purpose of the revision. Section 173.301(b) of today's regulations requires that "A container charged with a compressed gas must not be shipped unless it was charged by or with the consent of the owner of the container."

There is a strong safety basis for this provision. Cylinders commonly remain in service for many decades. The excellent safety record in the transportation of gases over such time periods is derived in significant part from the careful charging,

periodic retesting, and maintenance functions performed by the cylinder owner or on his behalf. The cylinder, as a reused container kept within the control of the owner, remains the owner's responsibility, and safety in transportation is enhanced as a result.

Compliance with this provision would be greatly facilitated by the two requirements that we ask you to insert in Section 173.34. The appearance of multiple owner symbols on the same cylinder obviously would frustrate the intent of Section 173.301(b). We request, therefore, that the current owner be made more readily identifiable by having Section 173.34 declare that only one owner symbol at a time may appear on a cylinder.

The second requested requirement would provide assurance that the symbol of an owner would not be removed without his permission. Section 173.301(b) recognizes the owner's responsibility for cylinder maintenance and record keeping, and the safety value of those functions. This information provides historical continuity in use of the container, for the sake of safety in transportation and use. Haphazard and unlimited alteration of owner symbols without owner permission would nullify the benefit of the current requirement to seek the owner's permission before shipping a recharged cylinder.

Other benefits of the revision. Clarification of the ownership of cylinders also provides benefits in the environmental area, facilitating rapid identification of interested parties in the event of improper discard of a cylinder. In situations involving civil liability as well, more ready determination of ownership will be beneficial to the public.

Conclusion. CGA's registration system of owner symbols will be maintained as long as the requested language appears in title 49 CFR. The registration system will be maintained without expense to DOT, and it will not entail any use of government personnel.

Registering a symbol under the CGA system will not be required in Title 49, and therefore no regulatory impact, small business, paperwork reduction, environmental impact, or information gathering issues are involved. The proposed requirements pertaining to appearance of only a single owner's symbol, and no changing of owner symbols without owner permission, merely facilitate existing requirements and also impose no new obligations on any parties requiring regulatory impact analyses.

Subsequent to receipt of the petition, CGA provided MTB a draft copy of its Pamphlet C-18 as adopted by CGA, but not yet formally printed. A copy is available for examination in the public docket under HM-172A.

Interested persons are encouraged to present their views on the CGA petition described above. Of particular value would be comments addressing the following questions concerning the CGA petition:

1. What constitutes an owner's symbol and how should the term be defined?

2. Should a distinction be drawn between symbols stamped into the metal of a cylinder (shoulder or footring, when permitted) and those that are non-permanent e.g., painted logos, trademarks or tradenames?

3. If a rule is adopted, as proposed by CGA, what impact would it have on owners of existing cylinders?

4. In view of the advantages discussed by CGA in ensuring that the current owner of a cylinder be readily identifiable, should there be a mandatory requirement that an owner symbol be placed on a cylinder?

5. What actions, if any, should be required of a carrier, shipper, or a freight forwarder who finds more than one owner symbol on a cylinder?

Commenters are not limited to responding to the questions raised above and may submit any facts and views consistent with the intent of this notice. In addition, commenters are encouraged to provide comments on "Major rule" considerations under terms of Executive Order 12291, "significant rule" considerations under the DOT regulatory procedures (44 FR 11034), potential environmental impacts subject to the Environmental Policy Act, information collection burdens which must be reviewed under the Paperwork Reduction Act, and economic impact on small entities subject to the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials.

(49 U.S.C. 1804; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A to Part 106)

Issued in Washington, D.C. on April 4, 1984.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84-9685 Filed 4-10-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal to Determine *Carex speciosa* To Be a Threatened Species and To Determine Its Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to list a plant, *Carex specuicola*, as a threatened species under the authority contained in the Endangered Species Act of 1973, as amended. Critical habitat is being proposed. This plant occurs in Coconino County, Arizona, on the Navajo Indian Reservation. The three known populations and their habitat are currently threatened with impacts from livestock grazing and water development. A final determination of *Carex specuicola* to be a threatened species will implement the protection provided by the Endangered Species Act of 1973, as amended. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by June 11, 1984. Public hearing requests must be received by May 29, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Service's Regional Office of Endangered Species, 421 Gold Avenue, SW., Room 407, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Dr. Russell L. Kologiski, Botanist, Region 2 Endangered Species staff (see ADDRESSES above) (505/766-3972).

SUPPLEMENTARY INFORMATION:

Background

Carex specuicola is a perennial sedge in the Cyperaceae (sedge) family. This species was first collected by J. T. Howell in 1948 and the description was published by him in 1949. *Carex specuicola* has a triangular stem 25-40 centimeters high, and an elongate, slender rhizome or underground stem. The leaves are pale green, 1-2 millimeters wide, 12-20 centimeters long and clustered near the base. The flowers are in 2-4 groups or spikes. The terminal spike has both male and female flowers with the female flowers above the male flowers. The lateral spikes contain only female flowers. The flowers are reduced and not showy; they consist of small, green-brown, scale-like parts 2-3 millimeters long and 1-1.5 millimeters wide. Flowering and fruit set occur from spring to summer, but most of the reproduction appears to be vegetative.

Carex specuicola occurs in sandy to silty soils within the Navajo Sandstone Formation. The plants grow in shady seep-spring areas. The vegetation is

pinon-juniper woodland at elevations of 1740-1824 meters, with an average annual precipitation of 19.4 centimeters (at Kayenta). Within its habitat *Carex* is locally common, growing in dense clumps from the rhizomes. Each population covers an area of less than 200 square meters along the outflow from the seeps and springs. In 1980, all plants were healthy and vigorous (Phillips *et al.*, 1981).

Previous actions involving *Carex specuicola* began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the Federal Register (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2), now Section 4(b)(3)(a), of the Act and of its intention thereby to review the status of those plants. On June 18, 1976, the Service published a proposed rule in the Federal Register (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. *Carex specuicola* was included in the Smithsonian petition and the 1976 proposal. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, Federal Register publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. In the December 10, Federal Register (44 FR 70796), the Service published a notice of withdrawal of the June 16, 1976, proposal, along with four other proposals that had expired. *Carex specuicola* was included as a category 1 species in a revised list of plants under review for threatened or endangered classification published in the December 15, 1980, Federal Register (45 FR 82480). Category 1 is comprised of taxa for which the Service presently has sufficient biological information to support their being proposed to be listed as endangered or threatened species.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The species listed in the December 15, 1980, notice of review were considered to be petitioned, and the deadline for a finding on those

species, including *Carex specuicola*, was October 13, 1983.

On October 13, 1983, the petition finding was made that listing *Carex specuicola* was warranted but precluded by other pending listing actions, in accordance with Section 4(b)(3)(B)(iii) of the Act. Such a finding requires a recycling of the petition, pursuant to Section 4(b)(3)(C)(i) of the Act. Therefore, a new finding must be made; this proposed rule constitutes the finding that the petitioned action is warranted and proposes to implement the action, in accordance with Section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate the 1982 amendments) set forth procedures for adding species to the Federal list. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. All of the factors and their application to *Carex specuicola* J. T. Howell are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. *Carex specuicola* has only been found in the vicinity of Inscription House Ruin on the Navajo Indian Reservation, where it was originally discovered. The habitat of *Carex specuicola* is vulnerable to changes resulting from water development for livestock. Water supplies are frequently used by livestock so the immediately adjacent areas receive intensive use. Two of the three known populations of *Carex* occur in areas used for livestock watering. The *Carex* populations and habitat should be monitored to determine the impacts of grazing. If necessary, the plants should be fenced to protect them from grazing impacts. Water developments should be carried out in such a manner as to protect this species where it is present. Severe impacts to any of these populations would affect a large portion of the species (Phillips *et al.*, 1981).

B. Overutilization for commercial, recreational, scientific, or educational purposes. Commercial or other trade in this plant is not known to exist (Phillips *et al.*, 1981).

C. Disease or predation (including grazing). Many species within the genus *Carex* are palatable to livestock and wildlife. Two of the three *Carex* sites are used by livestock (mainly sheep),

especially the population at Inscription House Ruin Spring. An increase in grazing pressure could be harmful to the species, and should be avoided until the grazing impact is thoroughly assessed (Phillips *et al.*, 1981).

D. The inadequacy of existing regulatory mechanisms. *Carex specuicola* is not protected by Federal law or the Arizona Native Plant Law. A permit is needed, however, from the Navajo Tribe for plant study or collection on the Reservation.

E. Other natural or manmade factors affecting its continued existence. The specific habitat requirements of *Carex specuicola*, the limited distribution, and small number of populations (3) make the existence of this species especially precarious in the event of a habitat disturbance or loss of a significant number of individuals.

The proposed action has been arrived at through the careful assessment of the best scientific and commercial information available, as well as the best assessment of past, present, and future threats faced by this species. Based on this evaluation the proposed action is to list *Carex specuicola* as threatened with critical habitat. Threatened status seems appropriate because of its restricted distribution and the small size of the populations which, although they are vigorous and reproducing well, are threatened by livestock grazing, habitat deterioration due to water development, and livestock trampling of areas around water sources.

Also considered was the fact that the only protection for this species is a Navajo Tribal Law prohibiting study or collection of this species without a permit. No other laws, State or Federal, provide protection to this species. The Navajo Tribal Law offers no protection against habitat modification, reduction of water supply, or grazing.

Critical Habitat

Critical habitat, as defined by Section 3 of the Endangered Species Act and at 50 CFR Part 424, means: (i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species, and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Act in Section 4(a)(3) requires that critical habitat be designated to the maximum extent prudent and determinable concurrent with the determination that a species is endangered or threatened. Critical habitat is being proposed for *Carex specuicola* to include the entire three known populations of the plant. The locations are on the Navajo Indian Reservation in Coconino County, Arizona, and consist of 40 x 5 meter rectangular areas (oriented along watercourse) centered on the following points: (1) Latitude 36° 39' 53" N, longitude 110° 47' 18" W; (2) latitude 36° 40' 07" N, longitude 110° 47' 55" W; and (3) latitude 36° 40' 18" N, longitude 110° 48' 15" W. The total area proposed comprises about 600 square meters, and contains all habitat presently known to be occupied by the species. Constituent elements are moist sandy to silty soils at shady seep-spring areas within the Navajo Sandstone Formation (Phillips *et al.*, 1981).

Section 4(b)(8) of the Act requires any proposal which designates critical habitat to be accompanied by a brief description and evaluation of those activities (public or private) which may adversely modify such habitat or may be affected by such designation. The activities that may adversely modify the critical habitat are spring development and grazing. Spring development could affect the free-flowing seeps and hanging gardens upon which the species is dependent. Livestock use has caused some soil erosion on the steeper sandy soil sites at the Inscription House Ruin Spring Site. Also, trampling and grazing by livestock have been observed.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as critical habitat. The Service will reevaluate the geographic critical habitat designation at the time of the final rule, after considering all additional information obtained.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species which are initiated by the Service following listing. The protection required by Federal agencies,

and the taking prohibitions are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this Interagency Cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29989; June 29, 1983). Section 7(a)(4) requires Federal agencies to informally confer with the Service on any action that is likely to jeopardize the continued existence of proposed species or result in destruction or adverse modification of proposed critical habitat. This protection will now accrue to *Carex specuicola*. Moreover, if a species is subsequently listed, Section 7 requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of this species or to destroy or adversely modify its critical habitat. If proposed, spring development could affect this plant once listed and Bureau of Indian Affairs (BIA) funding or authorization is involved, the BIA must enter into consultation with the Service prior to issuance of a BIA permit or funding. Permits for grazing are also issued by BIA.

The Act and implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions which apply to all threatened plant species. With respect to *Carex specuicola* all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, to deliver, receive, carry, ship or transport in interstate or foreign commerce in the course of a commercial activity, or to sell or offer for sale this species in interstate foreign commerce. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. International and interstate commercial trade in *Carex specuicola* is not known to exist. It is anticipated that few trade permits would ever be sought or issued since this plant is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession endangered plant species from areas under Federal jurisdiction. Section 4(d) provides for the provision of such protection to threatened species through regulations. This new protection will accrue to *Carex specuicola* when revised regulations are promulgated. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and these will be finalized following public comment. All three populations of *Carex specuicola* are on the Navajo Indian Reservation.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903).

If listed under the Act, the Service will review this species to determine whether it should be considered for placement on the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through Section 8A(e) of the Act, and whether it should be considered for other appropriate international agreements.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspects of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Carex specuicola*;

(2) The location of any additional populations of *Carex specuicola* and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject area and their possible impacts on *Carex specuicola*; and

(5) Any foreseeable economic and other impacts resulting from the proposed critical habitat.

Final promulgation of the regulations on *Carex specuicola* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References

- Howell, J. T. 1949. Three new Arizona plants. *Leaflets of Western Botany* 5(9):148.
Phillips, A. M., B. G. Phillips, L. T. Green, J. Mazzoni, and N. Brian. 1981. Status report: *Carex specuicola* J. T. Howell. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, NM. 12 pp.

Authors

The authors of this proposed rule are Sandra Limerick and Margaret Olwell, Endangered Species staff, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103. The editor was John L. Paradiso, Office of Endangered Species, Washington, D.C. 20240. Status information and a preliminary listing package were provided by Dr. A. M. Phillips, Dr. B. G. Phillips, L. T. Green, J. Mazzoni, and N. Brian, Museum of Northern Arizona, Route 4, Box 720, Flagstaff, Arizona 86001.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine Mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order, by family, genus, and species the following Plant taxon:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cyperaceae—Sedge family						
<i>Carex specuicola</i>	None	U.S.A. (AZ)	T		17.96(a)	NA.

3. It is further proposed to amend § 17.96(a) by adding the critical habitat of *Carex specuicola* as follows (the position of this critical habitat entry under 17.96(a) will be determined at the time of publication of a final rule):

§ 17.96 Critical habitat—plants.

(a) * * *

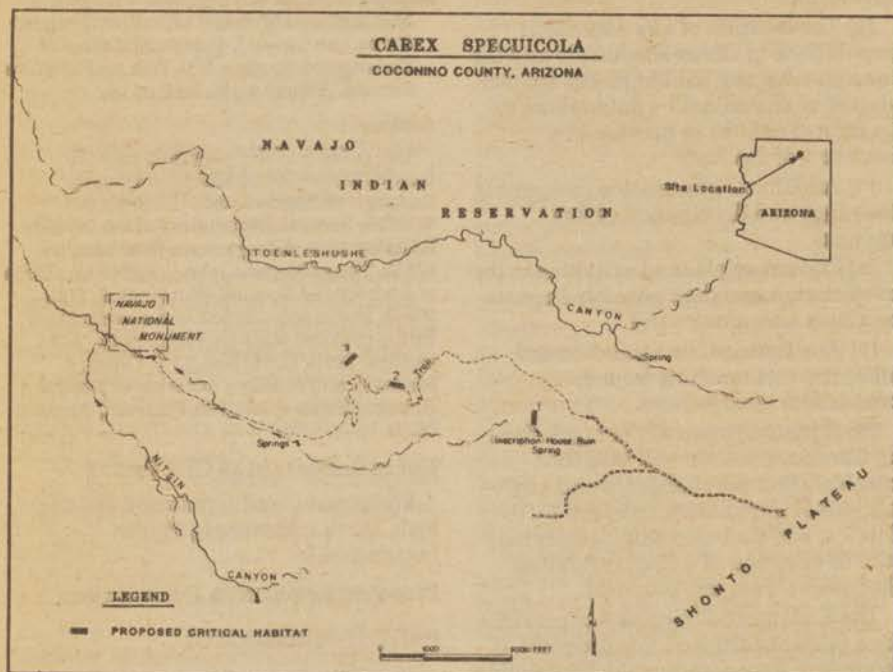
Family Cyperaceae
Carex specuicola

Arizona: Coconino County, Navajo

Indian Reservation. The 40×5 meter rectangular area (along the watercourse) around each of the following points: (1) Latitude 36°39'53"N, longitude 110°47'18"W; (2) latitude 36°40'07"N, longitude 110°47'55"W; and (3) latitude 36°40'18"N, longitude 110°48'15"W.

These areas comprise the total habitat presently known to be occupied by the species. Primary constituent elements

include moist sandy to silty soils at shady seep-spring areas within the Navajo Sandstone Formation.



Dated: March 27, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and
Parks.

[FR Doc. 84-9659 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 49, No. 71

Wednesday, April 11, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Negotiated Cleanup of Hazardous Waste Dump Sites Under CERCLA

AGENCY: Administrative Conference of the United States; Committee on Judicial Review.

ACTION: Notice of Public Meeting; Request for Comments.

SUMMARY: The Committee on Judicial Review of the Administrative Conference is reviewing a draft report concerning the procedures used to implement the Comprehensive Environmental Response Compensation Liability Act (the "Superfund" program), in particular the procedures for negotiating voluntary cleanups of hazardous waste dump sites. The Committee plans to develop proposed recommendations on this subject and submit them to the entire Conference membership at its meeting this June. This notice informs interested persons of the availability of the draft report and of draft recommendations based on that report, and invites these persons to submit views and information to aid the Committee in its consideration of this subject.

DATES: The Committee will meet to discuss the report and public comments on Monday, May 14, 1984, at 1:30 p.m.

Comment deadline: May 8, 1984. Comments received after the deadline will be considered to the extent feasible.

ADDRESSES: The Committee will meet in the 5th Floor Hearing Room, Commodity Futures Trading Commission, 2033 K St., NW., Washington, D.C.

Copies of the draft report and draft recommendation can be obtained from Mary Candace Fowler, Administrative Conference of the United States, 2120 L St., NW., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Mary Candace Fowler, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. Telephone 202-254-7065.

SUPPLEMENTARY INFORMATION: The Administrative Conference Committee on Judicial Review has received a draft report from Professor Frederick Anderson, University of Utah College of Law, concerning the use of negotiation to achieve cleanup of hazardous waste dump sites. The report describes the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") and related environmental legislation and reviews implementation of the statute by the Environmental Protection Agency ("EPA"). It suggests that greater use of negotiation with responsible parties for voluntary cleanup of hazardous waste disposal sites could expedite the CERCLA program and increase its efficiency. Applying recent developments in alternative dispute resolution, the paper presents a model process for negotiating cleanups under CERCLA. The process would emphasize negotiation well in advance of litigation, involvement of all groups with a stake in the outcome (including citizens living near a dump site), and the use of conveners and mediators to facilitate negotiations. The report also discusses key legal issues in CERCLA litigation that may affect the negotiating strategy of EPA and parties potentially responsible for cleanup, such as apportionment of liability and the meaning of the statutory term "imminent and substantial endangerment."

The Committee is also considering a draft recommendation based on the report. The draft recommendation would encourage EPA to place greater emphasis on the use of negotiation in implementing CERCLA and to take various measures designed to facilitate use of a negotiation process like that described in the report. Examples of these measures include: encouraging, and possibly funding, the efforts of independent organizations to convene and mediate negotiations at particular hazardous waste disposal sites; opening negotiations, in appropriate circumstances, in advance of remedial investigations at a site; and revising agency guidance memoranda to take

into account the fact that factors applicable to settlement of cases in litigation may not be appropriate in prelitigation negotiations.

The Committee seeks comments from interested members of the public on the merits of the draft recommendation, as well as descriptions of actual experiences with analogous site-specific negotiations, whether or not involving CERCLA. Copies of the draft report and draft recommendation can be obtained from Mary Candace Fowler, Administrative Conference of the United States, 2120 L Street, NW., Washington, D.C. 20037, telephone 202-254-7065. A single copy of any comments should be sent to Ms. Fowler at the same address by May 8, 1984. All comments submitted to the Committee will be placed in a file available for public inspection during normal business hours (9:00 a.m. to 5:30 p.m. Monday through Friday, excluding federal holidays) at the Office of the Chairman of the Administrative Conference, 2120 L Street, NW., Suite 500, Washington, D.C.

The Committee plans to submit proposed recommendations on this topic to the entire Conference membership in June. The Committee will meet Monday, May 14, 1984, at 1:30 p.m. in the 5th Floor Hearing Room, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., to consider the consultant's recommendations and any comments received. Attendance at the meeting is open to the public, but limited to the space available. Persons wishing to attend should notify Ms. Fowler at least two days in advance of the meeting. The Committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request. This meeting is subject to the Federal Advisory Committee Act (Pub. L. 92-463).

Richard K. Berg,

General Counsel.

April 9, 1984.

[FR Doc. 84-9875 Filed 4-10-84; 11:25 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 6, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 108-W Admin. Bldg., Washington, D.C. 20250, (202) 447-4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revised

- Agricultural Marketing Service Reporting Requirements Under U.S. Warehouse Act and Processed Agricultural Commodities Regulations On Occasion
Small Businesses: 38,560 responses; 19,326 hours; not applicable under 3504(h)
Orval Kerchner, (202) 447-3821
- Food Nutrition Service Oklahoma Indians Food Distribution Program
SF-269, SF-270, AD-623
On Occasion, Monthly, Quarterly, Annually, Biennially
Individuals or Households, State or Local Governments: 14,855 responses;

7,974 hours; not applicable under 3504(h)

Robert Beard, (703) 756-3660

Extension

- Animal and Plant Health Inspection Service
Application for Inspection and Certification of Animal By-products VS-16-24

On Occasion

Businesses: 15 responses; 8 hours; not applicable under 3504(h)

Robert L. Costigan (301) 436-8499

- Food and Nutrition Service
Status of Claims Against Households FNS-209

Quarterly

State or Local Governments: 212 responses; 534 hours; not applicable under 3504(h)

Mildred Kriegel (703) 756-3429

- Rural Electrification Administration
Inventory of Work Orders REA-219

On Occasion

Small Businesses: 8,100 responses; 12,150 hours; not applicable under 3504(h)

Roland S. Heard (202) 382-8227.

Susan B. Hess,

Acting Department Clearance Officer.

[FR Doc. 84-9719 Filed 4-10-84; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Santa Fe National Forest Land and Resource Management Plan and Santa Fe National Forest, Santa Fe, New Mexico; Withdraw the Decision To Implement the Santa Fe National Forest Land and Resource Management Plan

The Southwestern Region of the Forest Service has discovered a significant mathematical error in the analysis used in formulation of the Santa Fe National Forest Land and Resource Management Plan. Re-analysis will be required to determine the effects of the error on the alternative considered. The magnitude of this error may change the nature of the decision.

Due to this analysis problem, I have withdrawn my decision of October 31, 1983, implementing the Santa Fe National Forest Land and Resource Management Plan.

Dated: February 7, 1984.

M. J. Hassell,

Regional Forester.

[FR Doc. 84-9884 Filed 4-10-84; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Employee Protection Program

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order [Order 84-4-7].

SUMMARY: The Board proposes to (1) update the major contraction findings for six carriers through September 1983; (2) expand the scope of the investigations for those six carriers to include the major contractions through September 1983; (3) require additional employment data from eight carriers; and (4) institute an additional investigation and set it for hearing to determine whether the carrier suffered any qualifying dislocations.

DATES: Carriers submitting additional employment data requested by the Board shall do so no later than May 10, 1984.

Dockets

Airlift International (38418); Air New England (40201); American Airlines (38570); Braniff Airways (38978); Continental Air Lines (38720); Mackey International Airlines (39783); Pan American World Airways 38883; Trans World Airlines (38184); United Air Lines (38571); Delta Air Lines (39700); Eastern Air Lines (38586); Republic Airlines (41072); and Western Airlines (41061).

ADDRESSES: Responses should be filed in the appropriate docket and addressed to the Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, and should be served on all parties for that investigation.

FOR FURTHER INFORMATION CONTACT:

Steven B. Farbman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5340.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-4-7 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-4-7 to that address.

By the Civil Aeronautics Board: April 4, 1984.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-9724 Filed 4-10-84; 8:45 am]

BILLING CODE 5320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to International Raw Materials, Ltd. ("IRM"). This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department requests public comments on this certificate. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to the certificate as "Export Trade Certificate of Review, application number 84-00001."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act are found at 48 FR 10595-604 (March 11, 1983) [to be codified at 15 CFR Part 325]. A certificate of review protects its holder and the members identified in it from private treble damage actions and government criminal and civil suits under federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant;
2. Not unreasonably enhance, stabilize, or depress prices within the

United States of the goods, wares, merchandise, or services of the class exported by the applicant;

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant; and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meets these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937-40 (April 13, 1983).

Description of Certified Conduct

The Office of Export Trading Company Affairs received an application for an export trade certificate of review from IRM on January 3, 1984. The application was deemed submitted on January 6, 1984. A summary of the application was published in the Federal Register on January 19, 1984 (49 FR 2283). Based on analysis of the information contained in the application and other information in their possession, the Department of Commerce has determined, and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by IRM meet the four standards of the Act:

Export Trade

Anhydrous Sodium Carbonate (Soda Ash).

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

For the purpose of formulating an export joint venture business plan with Producers to be later submitted for certification under the Act, IRM is certified:

- (a) To discuss separately with each Producer information about:

- (1) Sales opportunities of Producers in any Export Market (e.g., prices in any Export Market, identification of customers in any Export Market, past, current and future transactions with those customers) and revenues from such sales opportunities,

- (2) Past, current and future marketing practices of that Producer in any Export Market (e.g., terms of sale, terms of payments, quality guarantee policies, pricing mechanisms),

- (3) Expenses (not including costs of production) specific to the sale of Soda Ash in any Export Market (e.g., ocean freight, inland freight to the terminal or port, terminal, or port storage, wharfage and handling charges, insurance, agents' commission, export sales documentation and service, export sales financing),

- (4) Storage and distribution capabilities of that Producer for the Soda Ash to be sold in Export Markets (e.g., railcar capabilities, loading rates, storage capabilities),

- (5) Quantities of Soda Ash that that Producer would make available to IRM for export over some future time period,

- (6) The price to IRM at which those quantities would be available from that Producer for export, and

- (7) That Producer's ability to respond to purchase orders for any Export Market (e.g., turnaround time, shipping time).

(b) To distribute separately to each interested Producer information about:

- (1) Projected aggregate quantities of Soda Ash available to IRM for export over some future time period,

- (2) Projected sales opportunities and projected sales revenues of a proposed export joint venture between IRM and the Producers,

- (3) Projected aggregate payments by IRM to Producers to acquire Soda Ash for export over some future time period and

- (4) Expenses (not including costs of production) specific to the sale of Soda Ash for any Export Market, excluding payments by IRM to each Producer to acquire Soda Ash.

(c) to negotiate separately with each interested Producer and to develop from those negotiations an export joint venture business plan that:

- (1) Authorizes IRM to purchase Soda Ash for a common stockpile and to sell Soda Ash from a common stockpile to any Export Market with the price and quantity of each purchase and sale to be determined at some time in the future,

- (2) Includes other arrangements between IRM and that Producer necessary to carry out the venture (e.g., quantity quotas for each Producer, profit allocations, procedures for adjusting

quotas and profit allocations, conditions for membership and withdrawal from membership, allocation among Producers of territories or customers in any Export Market) and

(3) Defines IRM's role and the services IRM will perform in the venture (e.g., formation of a common Soda Ash stockpile at IRM's facilities, provision of terminaling and marketing services, coordination of combined or pooled rail transport of Soda Ash to IRM's terminal, representation as an exclusive sales agent of the Producers in any Export Market).

(d) To propose separately to each interested Producer a business plan that identifies the members of the intended joint venture, sets forth the requirements for membership and withdrawal from membership, and describes the export trade activities and methods of operation intended to be undertaken by IRM and the members.

Terms and Conditions of Certificate

(a) IRM shall not intentionally disclose, directly or indirectly, to any Producer any information about any other Producer's costs, output, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale, or United States business plans, strategies, or methods that is not already generally available to the trade or public. For the purposes of this paragraph, the information described in the subparagraphs (a)(3), (b)(1), (b)(3) and (b)(4) above shall not be construed to fall within the scope of the prohibition in the preceding sentence.

Definitions

For purposes of this certificate, the term "Producers" means some or all of the following companies: Allied Corporation, FMC Corporation, Kerr/McGee Chemical Corporation, Stauffer Chemical Company, Tenneco Inc. and Texas Gulf Inc.

Effective Period of Certificate

This certificate continues in effect until a determination is made under the Act on an application for certification of the proposed export joint venture or unless it is earlier revoked or modified as provided in section 304(b) of the Act and section 325.9 of the Regulations.

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.5(c), which requires the Department of Commerce to publish a summary of a certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.10(a), any person aggrieved by the Secretary's determination may, within 30 days of

the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001-B, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. The certificates may be inspected and copied in accordance with regulations published in 15 CFR Part 4. Information about the inspection and copying of records at this facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Dated: April 5, 1984.

Irving P. Margulies,
General Counsel.

[FR Doc. 84-9845 Filed 4-10-84; 8:45 am]

BILLING CODE 3510-DR-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program; Publication of Quarterly Report

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of NVLAP quarterly report (January 1-March 31, 1984).

SUMMARY: The National Bureau of Standards (NBS) announces laboratory accreditation actions for the first quarter of 1984. The status of all NVLAP laboratory accreditation programs (LAPs) is summarized.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, TECH B141, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3431.

SUPPLEMENTARY INFORMATION: This report has been prepared in accordance with §§ 7a.17(a), 7b.17(a), 7c.17(a) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR Parts 7a, 7b, and 7c).

New Accreditations Granted

Five laboratories were newly accredited during the first quarter of 1984. Pertinent information regarding each newly accredited laboratory, including the test methods for which they were accredited, are set out below.

INSULATION LAP

[Accreditation renewal date: April 1, 1985]

NVLAP code	Designation	Short title
Knauf Fiber Glass Research Laboratories, 240 Elizabeth Street, Shelbyville, IN 46176—Kerry VanAradel, Phone: 317-398-4434		
01/D02	ASTM C167	Thickness and density; Blanket and batt.
01/D08	ASTM C302	Density; Preformed pipe insulation.
01/D09	ASTM C303	Density; Preformed block insulation.
01/D11	ASTM C358	Linear shrinkage; Soaking heat; Preformed high temperature insulation.
01/D12	ASTM C411	Hot-surface performance; High temperature insulation.
01/D13	ASTM C519	Density; Loose-fill (fibrous).
01/S01	ASTM C185	Compressive properties; Thermal insulation (proc. A).
01/T01	ASTM C177	Thermal transmission properties; Low-temperature guarded to plate.
01/T05	ASTM C335	Thermal conductivity; Pipe insulation.
01/T06	ASTM C518	Thermal transmission properties; Heat flow meter.
01/T09	ASTM C653	Thermal resistance (Rec. Practice); Blanket (mineral fiber).
01/T10	ASTM C687	Thermal resistance (Rec. Practice); Loose-fill (fibrous).

W. R. Grace & Co., Thermal Products Laboratory, 62 Whittemore Avenue, Cambridge, MA 02140—Gregory Derderian, Phone: 617-876-1400

01/D09	ASTM C303	Density; Preformed block insulation.
01/D14	ASTM C520	Density; Granular loose-fill.
01/T04	ASTM C236	Thermal conductance; Guarded hot box.
01/T06	ASTM C518	Thermal transmission properties; Heat flow meter.

CARPET LAP

[Accreditation renewal date: April 1, 1985]

NVLAP code	Designation	Short title
Custom Coating, Inc., 204 West Industrial Blvd., Dalton, GA 30720—James E. Whitfield, Phone: 404-277-3778		
03/F03	DoC FF1-82	Methanamine pill test.
Hollytex Carpet Mills, 505 N.E. Seventh Street, Anadarko, OK 73005—Chet Link, Phone: 405-247-8841		
03/C02	AATCC 8	Colorfastness to crocking.
03/S01	ASTM D1335	Tuft bind of floor covering.
	Federal test method standard:	
	191-	Textile test method—breaking strength.
	5100	
	191-	Textile test method—delamination.
	5950	
03/F03	DoC FF1-82	Methanamine pill test.

Pittsburgh Testing Laboratory, Syracuse, NY Plant Laboratory, 850 Poplar Street, Pittsburgh, PA 15220—William H. Levellus, Phone: 412-922-4000

02/M03	ASTM C31	Making and curing concrete test specimens in the field.
02/P01	ASTM C172	Sampling fresh concrete.
	ASTM C143	Slump of Portland cement concrete.
02/W01	ASTM C138	Unit weight, yield, and air content (gravimetric) of concrete.
02/A01	ASTM C231	Air content of freshly mixed concrete by the pressure method.
02/S01	ASTM C39	Compressive strength of cylindrical concrete specimens.
02/A02	ASTM C173	Air content of freshly mixed concrete by the volumetric method.

Renewed Accreditations

The following laboratories were reaccredited during the first quarter of 1984 for one or more test methods available under NVLAP. The reaccreditation of each laboratory is for a period of one year effective April 1, 1984. Each laboratory received a certificate of accreditation and a corresponding list of test methods for which each is accredited. Anyone wishing to know the test methods for which each laboratory has been reaccredited should request the listing from the laboratory directly or from Mr. Locke at the address given above. Note that laboratories may change the test methods for which they are accredited from year to year, so the user should secure the current list of accredited test methods.

Concrete Lap

Western Technologies, Inc., Phoenix, AZ
STS Consultants, Ltd., Research Triangle Park, NC
Atlantic Testing Labs, Inc., Cicero, NY
Garco Testing Laboratories, Salt Lake City, UT
Virginia Concrete Laboratory, Springfield, VA
American Testing Laboratories, Lancaster, PA

Acoustics Lap

Riverbank Acoustical Laboratory of ITRI, Geneva, IL
Gold Bond Building Products Research Center, Buffalo, NY

Voluntary Terminations

The following laboratory voluntarily terminated its accreditation during the first quarter of 1984

Carpet Lap

Associated Testing Laboratories, Wayne, NJ

Status of Existing LAPs

Insulation LAP—The LAP for thermal insulation materials has 62 test methods for which accreditation may be granted; 34 laboratories are currently accredited to perform one or more of these test methods.

Concrete LAP—The LAP for freshly mixed field concrete has two groups of test methods and one optional test method for which accreditation can be granted; 39 laboratories are currently accredited under the Concrete LAP.

Carpet LAP—The LAP for carpet has 12 test methods for which accreditation may be granted; 23 laboratories are currently accredited for one or more of these test methods.

Stove LAP—The LAP for solid fuel room heaters has 20 test methods for

which accreditation may be granted; 10 laboratories are currently accredited under the Stove LAP.

Acoustics LAP—The LAP for acoustical testing services has 50 test methods for which accreditation may be granted; seven laboratories are currently accredited under the Acoustics LAP. United Nations ECE Regulation 51 (Annex 3) has been added to the list of 49 previously accreditable test methods. This method describes procedures for measuring sound pressure levels of motor vehicles at various speeds.

Dosimetry LAP—The LAP for personnel dosimetry processors has eight radiation test categories for which accreditation may be granted; 25 processors have applied for accreditation in one or more of these categories. Applicants will participate in proficiency testing and receive on-site assessments in 1984, before accreditation decisions are made.

LAPs Under Development

Pressure Calibration Services LAP—A final finding of need was published in the Federal Register on March 15, 1984 (49 FR 9764-9767). A workshop will be held at NBS on May 16, 1984 in Room A 340 Metrology Building from 9:00 am to 5:00 pm to develop technical requirements for this LAP.

Commercial Products LAP—The establishment of this LAP and its associated fees were published in the Federal Register on January 20, 1984 (49 FR 2494-2499). Laboratories must have submitted their applications to NBS by April 1, 1984 to be included in the accreditation of the first round.

Photographic Film LAP—Thus far, 26 test methods have been proposed for the Film LAP. A workshop will be held at NBS in May, 1984, to select critical factors for each method and prepare implementing documentation.

Activated Carbon LAP—ASTM Committee D 28 met on February 7 and 8, 1984 and voted to request NBS to proceed with development of this LAP. NBS will work with the Committee to develop technical requirements for the LAP.

Proposed LAPs

Fire Extinguishers LAP—A decision has been made to withdraw the preliminary finding of need for this LAP due to its lack of support.

Dated: April 6, 1984.
Ernest Ambler,
Director, National Bureau of Standards.

(FR Doc. 84-0672 Filed 4-10-84; 8:45 am)

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration**Marine Mammals; Receipt of Application for Permit; Washington Department of Game**

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
a. Name: Washington Department of Game (P250A), Marine Mammal Investigations.
b. Address: 600 North Capitol Way, Olympia, Washington 98504.

2. Type of Permit—Scientific Research.
3. Name and Number of Animals:
Harbor seal (*Phoca vitulina*)—10,750.
California sea lion (*Zalophus californianus*)—2,500.

Northern sea lion (*Eumetopias jubatus*)—2,500.

4. Type of Take: These pinnipeds may be taken by unintentional harassment during aerial, ground and boat surveys of rookeries and haulout areas; 750 of the harbor seals will be blood sampled and tagged with flipper tags and pelage dye. Radiotelemetry packages may be attached to selected animals.

5. Location of Activity: All waters of Washington and Oregon.

6. Period of Activity: 5 years.
Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries,
National Marine Fisheries Service,
3300 Whitehaven Street NW.,
Washington, D.C.; and
Regional Director, National Marine
Fisheries Service, Northwest Region,
7600 Sand Point Way NE., BIN C15700,
Seattle, Washington 98115.

Dated: April 4, 1984.

Richard B. Roe,

Director, Office of Protected Species and
Habitat Conservation, National Marine
Fisheries Service.

[FR Doc. 84-9691 Filed 4-10-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit; Kamogawa Sea World

Notice is hereby given that an
Applicant has applied in due form for a
Permit to take marine mammals as
authorized by the Marine Mammal
Protection Act of 1972 (16 U.S.C. 1361-
1407), and the Regulations Governing
the Taking and Importing of Marine
Mammals (50 CFR Part 216).

1. Applicant:

- a. Name Kamogawa Sea World (P332).
- b. Address 1468-18 Higashicho
Kamogawa, Chiba Pref., 296, Japan.
2. Type of Permit—Public Display.
3. Name and Number of Animals:
Northern elephant seal (*Mirounga
angustirostris*)—4.
California sea lion (*Zalophus
californianus*)—4.
4. Type of Take: Captive Maintenance.
5. Location of Activity: Rehabilitated
animals from beached and stranded
stocks.
6. Period of Activity: 4 years.

The arrangements and facilities for
transporting and maintaining the marine
mammals requested in the above
described application have been
inspected by a licensed veterinarian,
who has certified that such
arrangements and facilities are
adequate to provide for the well-being of
the marine mammals involved.

Concurrent with the publication of
this notice in the *Federal Register*, the
Secretary of Commerce is forwarding
copies of this application to the Marine
Mammal Commission and the
Committee of Scientific Advisors.

Written data or views, or requests for
a public hearing on this application
should be submitted to the Assistant
Administrator for Fisheries, National
Marine Fisheries Service, U.S.
Department of Commerce, Washington,
D.C. 20235, within 30 days of the
publication of this notice. Those
individuals requesting a hearing should
set forth the specific reasons why a

hearing on this particular application
would be appropriate. The holding of
such hearing is at the discretion of the
Assistant Administrator for Fisheries.

All statements and opinions contained
in this application are summaries of
those of the Applicant and do not
necessarily reflect the views of the
National Marine Fisheries Service.

As a request for a permit to take living
marine mammals to be maintained in
areas outside the jurisdiction of the
United States, this application has been
submitted in accordance with National
Marine Fisheries Service policy
concerning such applications (40 FR
11619, March 12, 1975). In this regard, no
application will be considered unless:

(a) It is submitted to the Assistant
Administrator for Fisheries, National
Marine Fisheries Service, through the
appropriate agency of the foreign
government;

(b) It includes:

- i. A certification from such
appropriate government agency
verifying the information set forth in the
application;
- ii. A certification from such
government agency that the laws and
regulations of the government involved
permit enforcement of the terms of the
conditions of the permit, and that the
government will enforce such terms;
- iii. A statement that the government
concerned will afford comity to a
National Marine Fisheries Service
decision to amend, suspend or revoke a
permit.

In accordance with the above cited
policy, the certification and statements
of the Director of Research Division,
Fisheries Agency, Ministry of
Agriculture, Forestry and Fisheries,
Government of Japan, have been found
appropriate and sufficient to allow
consideration of this permit
applications.

Documents submitted in connection
with the above application are available
for review in the following offices.

Assistant Administrator for Fisheries,
National Marine Fisheries Service,
3300 Whitehaven Street NW.,
Washington, D.C.; and
Regional Director, Southwest Region,
National Marine Fisheries Service, 300
South Ferry Street, Terminal Island,
California 90731.

Dated: April 4, 1984.

Richard B. Roe,

Director, Office of Protected Species and
Habitat Conservation, National Marine
Fisheries Service.

[FR Doc. 84-9692 Filed 4-10-84; 8:45 am]

BILLING CODE 3510-22-M

Establishment of the United States Section of the North Atlantic Salmon Conservation Organization

The United States Section of the
North Atlantic Salmon Conservation
Organization (NASCO) is established
under Section 303 of the Atlantic
Salmon Convention Act of 1982 (16
U.S.C. 3801 *et seq.*), as amended. The
Act implements the Convention for the
Conservation of Salmon in the North
Atlantic, which entered into force on
October 1, 1983, and established the
NASCO.

The charter establishing the United
States Section of the NASCO has been
finalized and is now available to the
public. The purpose of the United States
Section is to serve the United States
Commissioners to NASCO, the
Department of State, and other agencies
of the United States Government, in a
solely advisory capacity, with respect to
United States participation in the work
of the NASCO.

Copies of the charter can be obtained
by writing to the following office of the
National Marine Fisheries Service:
Director, Office of International
Fisheries, F/M3, National Marine
Fisheries Service, National Oceanic and
Atmospheric Administration,
Washington, DC 20235.

For further information about the
Convention or the NASCO please
contact Arthur Neill (617-548-5123), or
Ted I. Lillestolen (202-634-7257).

Dated: April 5, 1984.

William G. Gordon,

Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. 84-9687 Filed 4-10-84; 8:45 am]

BILLING CODE 3510-22-M

Listing Endangered and Threatened Species and Designating Critical Habitat; Action on a Petition To List the North Pacific Fur Seal

AGENCY: National Marine Fisheries
Service, NOAA, Commerce.

ACTION: Notice of determination on
petition and request for information.

SUMMARY: The National Marine
Fisheries Service has received a petition
to add the North Pacific fur seal,
Callorhinus ursinus, to the U.S. List of
Endangered and Threatened Wildlife. In
accordance with Section 4 of the
Endangered Species Act of 1973, the
Assistant Administrator for Fisheries
has determined that the petition
presents substantial scientific
information indicating that the action
may be warranted. As required by

Section 4(b)(3)(A) of the Act, the Service has commenced a review of the status of *C. ursinus* to determine if the petitioned action is warranted. To ensure that the review is comprehensive, the Service is soliciting information and data concerning the status of *C. ursinus*.

DATE: Comments and information should be received by June 11, 1984.

ADDRESS: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Carter, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, (202) 634-7471, Mr. James W. Brooks, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, (907) 586-7222, or Mr. Joe Scordino, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington 98115, (206) 527-6110.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Endangered Species Act of 1973 (ESA) contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce to add a species to, or remove a species from the List of Endangered and Threatened Wildlife (List). Section 4(b)(3)(A) of the ESA requires that, to the maximum extent practicable, within 90 days after receiving such a petition the Secretary must determine whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. This information standard for petitions is the result of an amendment made to Section 4 of the ESA in 1982. Proposed regulations implementing these amendments were published in the *Federal Register* (49 FR 36062-36069) on August 8, 1983. These regulations have not been finalized. The Service interprets "substantial scientific or commercial information" to mean the amount of information that would lead a reasonable person to believe that the proposed measure may be warranted. The criteria used in making such determinations are found in 50 CFR 424.14(b). These criteria essentially are the same as those contained in the proposed regulations implementing the 1982 amendments to Section 4 of the ESA (48 FR 36062-36069).

Listing Factors and Basis for Determinations

Pursuant to Section 4(a)(1) of the ESA, a species is determined to be endangered or threatened for any of the following reasons: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) Overutilization for commercial, recreational, scientific, or educational purposes; (3) Disease or predation; (4) Inadequacy of existing regulatory mechanisms; or (5) Other natural or manmade factors affecting its continued existence.

The 1982 amendments to the ESA clarify that determinations concerning decisions on listings shall be made solely on the best scientific and commercial data available after conducting a status review of the species and after taking into account those efforts, if any, being made by any State, or foreign nation, or subdivision thereof, to protect such species. The purpose of these amendments is to ensure that decisions in every phase of the process to list or delist species are made solely on biological criteria and to prevent non-biological considerations from affecting such decisions (H.R. Rep. No. 97-835, 97th Cong., 2d Sess. 19 (1982) Conference Report).

Petition Received

On January 5, 1984, the Service received a petition from Dr. John W. Grandy, Humane Society of the United States, to list the North Pacific fur seal, *Callorhinus ursinus*, as a threatened species.

The Assistant Administrator for Fisheries has determined that the petition presents substantial scientific information indicating that the petitioned action may be warranted. Pursuant to Section 4 of the ESA, this determination requires that a review of the status of *C. ursinus* be conducted to determine if the petitioned action is warranted. In addition, Section 4 also requires that within 12 months of receipt of a "substantial" petition the Secretary must make one of the following findings: (1) The petitioned action is not warranted; (2) the petitioned action is warranted; or (3) the petitioned action is warranted, but pending listing proposals preclude immediate proposal of a regulation to implement the action. A Notice of the finding must be published in the *Federal Register* and in the case of (2) above, the completed text of a proposed regulation to implement the action must be included.

The petition does not address the designation of Critical Habitat. If it is determined that the petitioned action is

warranted, Section 4(a)(3)(A) of the ESA requires that Critical Habitat be specified, to the maximum extent prudent and determinable, at the time the species is proposed for listing. The reasons for not designating Critical Habitat must be stated in the publication of proposed and final rules listing the species.

Biological Information Solicited

To ensure that the review is complete and is based on the best available scientific and commercial data concerning *C. ursinus*, the Service is soliciting information and comments concerning the status of the species from any interested party. The Service requests that such data, information, and comments be accompanied by: (1) Supporting documentation, such as maps, bibliographic references, or reprints of pertinent publications; and (2) the Party's name, address, and any association, institution, or business that the Party represents.

Dated: April 4, 1984.

William G. Gordon,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. 84-0890 Filed 4-10-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Cotton Textiles and Cotton Textile Products Exported from Egypt

April 6, 1984.

On January 10, 1984, a notice was published in the *Federal Register* (49 FR 1286) announcing that on December 29 and 30, 1983, the United States Government, under the terms of the Bilateral Cotton Textile Agreement of December 7 and 28, 1977, as extended, had requested the Government of the Arab Republic of Egypt to enter into consultations concerning exports to the United States of cotton yarn in Categories 300 and 301, and cotton twill and sateen in Category 317, produced or manufactured in Egypt.

Consultations have been held concerning these categories, but no agreement has been reached on a mutually satisfactory solution. The United States Government has decided, therefore, pending further consultations with the Government of the Arab Republic of Egypt, to control imports of cotton textile products in Categories 300 and 301, and 317 during the following periods at the levels indicated:

Category	Level	Period
300	5,075,329 pounds	Dec. 29, 1983-Dec. 28, 1984.
301	1,047,390 pounds	Dec. 29, 1983-Dec. 28, 1984.
317	6,222,858 square yards	Dec. 30, 1983-Dec. 29, 1984.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textiles and textile products in Categories 300, 301, 317 exported during the indicated twelve-month periods in excess of the designated levels.

EFFECTIVE DATE: April 12, 1984.

FOR FURTHER INFORMATION CONTACT:

Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C., (202/377-4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the terms of the Bilateral Cotton Textile Agreement of December 7 and 28, 1977, as extended, between the Governments of the United States and the Arab Republic of Egypt; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed, effective on April 12, 1984, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 300, 301, and 317, produced or manufactured in Egypt and exported during the following periods, in excess of the indicated levels:

Category	12-month level ¹
300	5,075,329 pounds (Dec. 29, 1983-Dec. 28, 1984).
301	1,047,390 pounds (Dec. 29, 1983-Dec. 28, 1984).
317	6,222,858 square yards (Dec. 30, 1983-Dec. 29, 1984).

¹ The levels of restraint have not been adjusted to reflect any imports exported after December 28, 1983 (Cats. 300, 301), or December 29, 1983 (Cat. 317).

Cotton textiles and cotton textile products in Categories 300, 301, and 317 which have been exported to the United States prior to

the first day of each of the designated restraint periods shall not be subject to this directive.

Cotton textiles and cotton textile products in Categories 300, 301, and 317 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Arab Republic of Egypt and with respect to imports of cotton textile products from Egypt have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-9686 Filed 4-10-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery

Notice of Meeting

Notice is hereby given that the Coordinating Subcommittee of the NPC Committee on Enhanced Oil Recovery will meet in April 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Coordinating Subcommittee meeting follow:

The Coordinating Subcommittee will hold its nineteenth meeting on Tuesday,

April 24, starting at 9:00 a.m., and Wednesday, April 25, 1984, starting at 10:00 a.m., in the Mount Vernon Room of The Madison Hotel, Fifteenth and M Streets, N.W., Washington, D.C.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review draft report.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on March 29, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84-9741 Filed 4-10-84; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Marine Task Group of the Committee on the Strategic Petroleum Reserve

Notice of Meeting

Notice is hereby given that the Marine Task Group of the Committee on the Strategic Petroleum Reserve will meet in April 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on the Strategic Petroleum Reserve will address various aspects of the Strategic Petroleum Reserve and the long-term availability and movement patterns of tankers worldwide. Its analysis and

findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Marine Task Group meeting follow:

The Marine Task Group will hold its first meeting on Wednesday, April 25, 1984, starting at 9:00 a.m., in the Sun Brook Conference Center, 601 County Line Road, Radnor, Pennsylvania.

The tentative agenda for the Marine Task Group meeting follows:

1. Opening remarks by the Chairman and Government Co-Chairman.
2. Discuss the scope of the overall study.
3. Discuss the study assignment of the Marine Task Group.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Marine Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Marine Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., On March 29, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84-9742 Filed 4-10-84; 8:45 am]

BILLING CODE 8450-01-M

Federal Energy Regulatory Commission

[Docket No. CP82-119-008]

Algonquin Gas Transmission Corporation; Amendment to Application

April 5, 1984.

Take notice that on March 20, 1984, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP82-119-008 an

amendment to its pending application in Docket No. CP82-119-000 for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act authorizing the transportation and sale for resale of natural gas from domestic supply sources and the construction and operation of facilities therefor, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

Algonquin styles its amendment as a letter transmitting to the Commission certain substitute and additional pages to its third amendment to application for certificate of public convenience and necessity (Third Amendment), filed January 26, 1984. Algonquin's amendment, *inter alia*, (i) makes adjustments in sales quantities to certain of Algonquin's customers; (ii) makes adjustments to facilities' costs and rates which result from an alteration of facility requirements for the service proposed in the Third Amendment, and (iii) requests acceptance of the executed supply contracts underlying the services proposed in the Third Amendment and the executed exchange agreement between Algonquin and Texas Eastern Transmission Corporation discussed in the January 26, 1984 Third Amendment filing.

Algonquin states that an adjustment of quantities has occurred among certain of Algonquin's Rate Schedule F-2 and F-3 customers because an Algonquin customer has determined that pursuant to the provisions of its precedent agreement with Algonquin, it did not have local regulatory approval for the full purchase of gas contemplated. Algonquin further states that it has reallocated the quantity not purchased to its other Rate Schedule F-2 and F-3 customers in accordance with precedent agreement provisions and that this process resulted in slightly different sales quantities to seven customers and in a total of 517 million Btu per day being relinquished by Algonquin from its purchases from Consolidated Gas Supply Corporation (Consolidated) and National Fuel Gas Supply Corporation (National Fuel) in the period prior to November 1, 1986, only. Algonquin states that the following are revised Tables 1, 2 and 3 from pages 9-10 of the text of the January 26, 1984 Third Amendment filing, in which such reallocated and relinquished quantities are now reflected:¹

¹ All quantities are given prior to assessment for fuel use.

TABLE 1.—CUSTOMER MAXIMUM DAILY QUANTITIES UNDER PROPOSED RATE SCHEDULES F-2 AND F-3

	[Million Btu—dry]		
	Interruptible service period, Nov. 1, 1983-Oct. 31, 1985		
	F-2	F-3	Total
Boston Gas Co.			
Bristol and Warren Gas Co.	218	177	395
Colonial Gas Co.	1,393	1,135	2,528
Commonwealth Gas Co.	6,620	5,393	12,013
The Connecticut Light & Power Co.			
Connecticut Natural Gas Corp.	4,528	3,689	8,217
Granite State Gas Transmission, Inc.			
Town of Middleborough, Massachusetts	72	58	130
North Attleboro Gas Co.	33	27	60
City of Norwich, Connecticut	165	135	300
The Pequot Gas Co.	68	55	123
Providence Gas Co.	1,653	1,347	3,000
South County Gas Co.	147	119	266
The Southern Connecticut Gas Co.	2,964	2,415	5,379
Total	17,861	14,550	32,411

TABLE 2

	Build-up firm service period, Nov. 1, 1985-Oct. 31, 1986		
	F-2	F-3	Total
Boston Gas Co.			
Bristol and Warren Gas Co.	228	167	395
Colonial Gas Co.	1,457	1,071	2,528
Commonwealth Gas Co.	6,927	5,086	12,013
The Connecticut Light & Power Co.			
Connecticut Natural Gas Corp.	4,739	3,478	8,217
Granite State Gas Transmission, Inc.			
Town of Middleborough, Massachusetts	75	55	130
North Attleboro Gas Co.	46	34	80
City of Norwich, Connecticut	173	127	300
The Pequot Gas Co.	71	52	123
Providence Gas Co.	2,883	2,117	5,000
South County Gas Co.	154	112	266
The Southern Connecticut Gas Co.	3,102	2,277	5,379
Total	19,855	14,576	34,431

TABLE 3

	Full service period, Nov. 1, 1986—termination		
	F-2	F-3	Total
Boston Gas Co.	21,394	6,335	27,729
Bristol and Warren Gas Co.	305	90	395
Colonial Gas Co.	1,951	577	2,528
Commonwealth Gas Co.	10,360	3,073	13,433
The Connecticut Light & Power Co.	5,972	1,768	7,740
Connecticut Natural Gas Corp.	6,340	1,877	8,217
Granite State Gas Transmission, Inc.	5,200	1,540	6,740
Town of Middleborough, Massachusetts	116	34	150
North Attleboro Gas Co.	77	23	100
City of Norwich, Connecticut	232	68	300
The Pequot Gas Co.	94	29	123
Providence Gas Co.	6,172	1,828	8,000
South County Gas Co.	205	61	266
The Southern Connecticut Gas Co.	4,922	1,457	6,379
Total	63,360	18,760	82,120

Algonquin states that the reallocation of quantities among Algonquin Gas' customers occurs both prior to and after November 1, 1986 (the beginning of the full firm service period), although the total quantity of gas to be purchased by Algonquin from Consolidated and National Fuel remains undiminished for the period after November 1, 1986.

Algonquin states that the facilities now proposed have been adjusted to reflect the deletion of minor pipeline construction that has been determined to be unnecessary to render Rate Schedule F-2 and F-3 service and that no further change in facilities would be required as a result of the relinquishment and reallocation identified in this fourth amendment. Algonquin further states that this facility deletion has altered the projected cost of facilities, the resulting cost of service, and the expected revenues from that service. In addition, Algonquin states that because of a minor change in billing determinants in the 1985-86 year, the projected rate for such year changes slightly and that this change has been shown on replacement pages in Exhibit P, Schedules 2 and 3.

Algonquin alleges that this Fourth Amendment contains revised Exhibits F, G, G-I, G-II, H, K, N and P, which reflect the deletion of three segments of pipeline construction totaling about 2 miles in length.

Algonquin states that the total estimated cost of facilities for the service proposed has decreased from \$49.8 million to \$47.1 million and that adjustments were made in the estimated cost of compression facilities in Cromwell, Connecticut, and the miscellaneous meter station modifications required to implement its service proposed.

Algonquin further states that Exhibit P has been revised to reflect that Algonquin would not have firm capacity available until November 1, 1985, and would render interruptible service until that time. In addition, Algonquin states that Rate Schedule F-3 has been revised to allow for flow-through of termination payments that may be required by Transco as contemplated and permitted by the precedent agreements, between Algonquin Gas and its customers, and that Article II of the service agreements for Rate Schedule F-2 and F-3 service has been revised to reflect a modified approach to facility cost recovery by Algonquin.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 28, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-0500 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-348-000]

American Electric Power Service Corp.; Filing

April 6, 1984.

The filing Company submits the following:

Take notice that on March 29, 1984, American Electric Power Service Corporation (AEP) tendered for filing a Transmission Agreement, dated April 1, 1984, by and among, Appalachian Power Company, Columbus and Southern Ohio Electric Company, Indiana & Michigan Electric Company, Kentucky Power Company, Ohio Power Company and American Electric Power Service as Agent.

AEP states that the purpose of this Agreement is to maintain and improve the benefits of the coordinated development of the AEP Extra-High Voltage Transmission System by providing for the equitable sharing among the parties of the cost of ownership and operation of such System.

AEP requests an effective date of June 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Public Service Commission of Indiana, the Kentucky Public Service Commission, the Michigan Public Service Commission, the Public Utilities Commission of Ohio, the Virginia State Corporation Commission, and the Public Service Commission of West Virginia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211,

385.214). All such motions or protests should be filed on or before April 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-0506 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL84-6-000]

The Attorney General of the Commonwealth of Massachusetts, The Department of Public Utilities of the Commonwealth of Massachusetts, the Attorney General of the State of Rhode Island, and the Rhode Island Division of Public Utilities and Carriers v. New England Power Co.; Order Granting Request for Investigation, Establishing Hearing Procedures, and Denying Request for Joint Board

Issued: April 5, 1984.

On December 6, 1983, the Attorney General of the Commonwealth of Massachusetts, the Department of Public Utilities of the Commonwealth of Massachusetts, and the Attorney General of the State of Rhode Island, both on his behalf and that of the Rhode Island Division of Public Utilities and Carriers (Complainants), filed a complaint and petition for investigation under sections 205,¹ 206,² and 306³ of the Federal Power Act. The Complainants request an investigation into the August 1983 outage of the Brayton Point No. 3 Generating Unit owned and operated by New England Power Company (NEP).

Background

On August 26, 1983, NEP's Brayton Point No. 3 Generating Unit, which has capacity of 826 MW, went out of service due to a breakdown in the unit's generating turbines. As a result, the unit was expected to be out of service for six to nine months.⁴

The outage has caused NEP to obtain replacement energy at costs in excess of those incurred at Brayton Point. These

¹ 16 U.S.C. 824d.

² 16 U.S.C. 824e.

³ 16 U.S.C. 825e.

⁴ On January 30, 1984, NEP advised the Commission, in its answer to the complaint, that it expected to place the unit back in service by early February, a little over five months after the outage.

increased energy costs have been passed through NEP's wholesale fuel adjustment clause to affiliated companies, including Massachusetts Electric Company and Narragansett Electric Company, which, in turn, have passed the increased costs through their fuel clauses to retail customers in Massachusetts and Rhode Island.

The Complainants do not allege that the outage at Brayton Point No. 3 is the result of imprudence by NEP. They do, however, raise several prudence-related questions,⁵ and request that the Commission investigate the outage. In support of their request, the Complainants state that this Commission has exclusive jurisdiction over the transactions between NEP and its affiliates, and that the State commissions must permit the pass-through at retail of amounts attributable to FERC-approved rates. See, e.g., *State of Utah v. FERC*, 691 F.2d 444 (10th Cir. 1982); *Northern States Power Co. v. Hagen*, 314 N.W. 2d 32 (N.D. 1981); *Narragansett Electric Co. v. Burke*, 381 A.2d 1358 (R.I. 1977), cert. denied 435 U.S. 972 (1978).

Finally, the Complainants note that while they are intervenors in Docket Nos. ER83-647-000, et al. (a recent NEP wholesale rate case), they request that the Brayton Point matter be considered separately. The Complainants allege that consolidation may impair settlement negotiations in Docket Nos. ER83-647-000, et al. and, further, that the Brayton Point matter may be resolved faster if considered separately. Alternatively, the Complainants suggest that NEP's prior rate case (Docket Nos. ER82-702-000, et al.) be phased for the sole purpose of determining the cause of the outage.

Notice of the complaint was published in the *Federal Register*,⁶ with comments due, after extension, on or before January 30, 1984. A timely motion to intervene was filed jointly by the Towns of Merrimac and Groveland, Massachusetts (Towns). The Towns, as wholesale customers of NEP, allege that they may be affected by this proceeding; they do not, however, raise any specific issues in their pleading. In addition, comments supporting an investigation were received from the Honorable Claiborne Pell, United States Senator (R.I.), and four retail customers of Massachusetts Electric Company—

Amelia Belliveau, Carol Eaton, Theodore Trudeau, and Nora T. Hughes.

On January 30, 1984, NEP filed its answer to the complaint. NEP requests that the Commission defer action until the company completes an internal investigation into the cause of the Brayton Point outage and reports its findings to the Commission. In support of its position, NEP states that: (1) The cause of the outage is unknown; (2) the Complainants acknowledge that they have no specific grounds for alleging imprudence by NEP; and (3) initiation of a formal investigation⁷ could cast a cloud over the company's ability to raise capital and could result in unnecessary expenditures of Commission resources. NEP also disputes the suggestions in the complaint that the August, 1983 outage at Brayton Point related to earlier outages or was otherwise foreseeable. In the event that the Commission does initiate an investigation, NEP agrees that it should be conducted in proceeding separate from the company's pending rate cases.

On November 2, 1983, Chairman Edward F. Burke of the Rhode Island Public Utilities Commission wrote to Acting Chairman Sousa regarding the Brayton Point outage. Chairman Burke noted that the petition for a joint investigation was about to be filed and requested that a joint board be convened to investigate the matter. Specifically, Chairman Burke proposed that such a board be created pursuant to section 209 of the Federal Power Act and consist of representatives of the FERC and the Massachusetts, Rhode Island, and New Hampshire state commissions.⁸

Discussion

Pursuant to Rule 214(c) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motion to intervene makes the Towns parties to this proceeding.

As noted by the Complainants, NEP's transactions with its affiliates are regulated exclusively by this Commission. State commissions which regulate the retail rates of NEP's customer-affiliates must therefore rely

⁷ NEP notes that the Complainants have styled their pleading as a complaint, citing sections 205, 206, and 306 of the Federal Power Act. However, inasmuch as the relief requested is an investigation, NEP states that the Complainants' filing should be treated as a request for a formal investigation under section 307 of the Federal Power Act and section 1b.5 of the Commission's regulations. According to NEP, such an investigation could be followed by initiation of hearing procedures under section 206 if the evidence warrants such a step.

⁸ Chairman Burke proposed the inclusion of New Hampshire because NEP sells power to its Granite Power Company affiliate located in that state.

on this Commission to ensure that costs which are recovered from the affiliates are prudently incurred. This is particularly true with respect to the costs at issue in this proceeding, which are automatically passed through NEP's fuel adjustment clause. In light of these factors, we believe that the issues raised by the Complainants, while generally stated, warrant further investigation.

NEP contends that the Complainants have failed to allege imprudence to the extent necessary to pursue a claim under section 206 of the Federal Power Act, citing *Virginia Electric and Power Company*, Opinion No. 118, 15 FERC ¶ 61,052 (1981) and *Minnesota Power & Light Company*, Opinion No. 88, 11 FERC ¶ 61,312 (1980). We agree that the initial burden rests with the Complainants to demonstrate "serious doubts" regarding prudence. However, the question at this stage is not whether the Complainants have stated sufficient facts to warrant rate relief, but whether we should institute proceedings in order to examine the matters raised. The question of imprudence is one which can be answered only by a detailed investigation of the facts surrounding the outage at Brayton Point No. 3. Under the circumstances, we believe that the Complainants have raised sufficient threshold questions to prompt initiation of an investigation.

NEP requests that the Commission defer action regarding a formal investigation until after it has completed its own investigation and submitted its conclusions sometime in May. Although NEP's report may yield useful information regarding the outage, we do not believe that the concerns expressed by the Complainants necessarily will be obviated by NEP's own report. Even if NEP responds directly to the questions raised, there may remain a need to examine the bases for the company's conclusions. Accordingly, we believe that procedures should be in place so that an investigation can proceed promptly. Therefore, we shall not defer action on the Complainants' petition until NEP submits its report to the Commission. We anticipate, however, that NEP will produce the results of its investigation when available.

We shall also deny NEP's alternative request for an investigation prior to the initiation of hearing procedures. We believe that the Complainants have demonstrated sufficient cause to convene an evidentiary hearing. To institute separate proceedings for investigation and for hearings would be duplicative and unduly time consuming. Furthermore, we are not persuaded by NEP's contention that appearances will

⁵ Specifically, the Complainants ask: (1) Whether NEP delayed too long in replacing certain parts of the turbine; (2) did the company properly monitor problems with the unit during the 4½ years preceding the outage; (3) was the outage foreseeable in light of previous incidents with the unit; and (4) should ratepayers pay the costs of the outage.

⁶ 48 FR 56635 (1983).

differ greatly depending upon the chosen vehicle for inquiring into the company's action.

Both the Complainants and NEP have stated that this proceeding should not be consolidated with the ongoing proceedings in either Docket Nos. ER82-702-000, *et al.* or ER83-647-000, *et al.* with respect to the former, all issues were the subject of a settlement agreement filed with the Commission, except for nuclear plant cancellation costs, as to which the parties are currently awaiting the issuance of an initial decision. With respect to Docket Nos. ER83-647-000, *et al.*, all issues except the inclusion of certain items in rate base have been settled, and a hearing on the remaining issue is currently scheduled to begin on April 24, 1984. In view of the advanced stages of NEP's pending rate cases, we shall accommodate the wishes of the parties and shall not consolidate the present proceeding with either of the pending rate cases.

While the petition and complaint filed on December 6, 1983, did not specifically request the creation of a joint board, we believe that Chairman Burke's prior request for a joint board remains outstanding and should be addressed. As stated in Rule 1304(a) of the Commission's Rules of Practice and Procedure, joint boards are designed for use in "unusual cases," and as a means of relief to the Commission when it might find itself unable to hear and determine cases before it, in the usual course, without undue delay. For the reasons which follow, we shall deny the requests for the creation of a joint board in this case.

First, NEP's sales to its affiliates in Massachusetts, Rhode Island, and New Hampshire are subject to the exclusive jurisdiction of this Commission. We therefore see no reason why this Commission, acting in its usual capacity, cannot adequately decide the issues raised in the complaint. Further, State commissions which filed the complaint, thus becoming parties to this proceeding, could not simultaneously act as a judge or advisor on the Brayton Point matter. For these reasons, we believe it would also be inappropriate to institute either of the two types of joint hearings mentioned in Rule 1305.*

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by

* With regard to concurrent hearings, Rule 1305(g) specifically provides that cooperation between two or more commissions in such a hearing precludes either from taking the position of an advocate or litigant.

section 402(a) of the Department of Energy Organization Act, and by the Federal Power Act, particularly sections 205, 206, and 308 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the questions raised by the Complainants with respect to the August, 1983 outage at NEP's Brayton Point No. 3 Generating Unit.

(B) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(C) The request by the Chairman of the Rhode Island Public Utilities Commission for the creation of a joint board is hereby denied.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-9697 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-349-000]

Central Maine Power Co.; Filing

April 6, 1984.

The filing Company submits the following:

Take notice that on March 29, 1984, Central Maine Power Company (Central Maine) tendered for filing proposed changes in its FERC Wholesale Electric Tariff to be effective June 1, 1984. The proposed changes would increase revenues from jurisdictional sales and service by \$162,000 based on the 12 month period ending December 31, 1982, and would reinstate a service contract requirement for service under this tariff.

Central Maine states that these changes in its FERC Electric Tariff were made in order to cover increased cost of operation including payroll costs, revised state corporate income tax rates, revised depreciation rates and new hydroelectric generating facilities. The three wholesale customers have given their written consent to the proposed

tariff changes prior to the submission of this filing.

Central Maine requests an effective date of June 1, 1984.

Copies of this filing were served upon the public utility's three jurisdictional customers, the Maine Public Utilities Commission and the Maine Public Advocate.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-9698 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-21-003 (PGA84-1a, IPR84-1, AP84-1)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 6, 1984.

Take notice that Columbia Gas Transmission Corporation (Columbia) on April 4, 1984, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective on March 1, 1984:

Substitute Ninety-second Revised Sheet No. 16
Substitute Third Revised Sheet Nos. 16B through 16D
Substitute Thirty-first Revised Sheet No. 64

Columbia states that the foregoing tariff sheets are being filed in compliance with Ordering Paragraphs (C)(2) and (C)(3) of the Commission's Order issued February 28, 1984. Ordering Paragraph (C)(2) directed Columbia to file revised tariff sheets eliminating all costs in its current adjustment and its Account 191 surcharge determined on an "as delivered" basis under Order Nos. 93 and 93A. Ordering Paragraph (C)(3) directed Columbia to file revised tariff sheets to reflect any downward adjustments to pipeline supplier rates contained in its original filing.

The instant filing reflecting these revisions results in (1) a revised

decrease in the Current Purchased Gas Cost Applicable to Sales Rate Schedules in the amount of \$87,229,019, which is \$826,454 less than that filed on January 30, 1984, (2) a revised Purchased Gas Surcharge Applicable to Rate Schedule SCES in the amount of \$703,037, which is \$1,235 less than that filed on January 30, 1984, (3) a reduction of \$4,293,649 in the Current Purchased Gas Cost Surcharge Applicable to Sales Rate Schedules including related carrying charges, and (4) a reduction of \$76,103 in the portion of special twelve month surcharge relating to retroactive payments to natural gas producers in connection with NGPA well qualifications or contractual rate determinations.

The rates contained in Substitute Ninety-second Revised Sheet No. 18 reflect a \$1.13/Dth demand decrease and a 10.10¢/Dth commodity increase, for a net decrease of approximately \$4.8 million at March 1, 1984, for the PGA period.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-0689 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-351-000]

Florida Power & Light Co.; Filing

April 6, 1984.

The filing Company submits the following:

Take notice that on March 29, 1984, Florida Power & Light Company (FPL) tendered for filing Amendment Number Four to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Florida Power Corporation (Rate Schedule FERC No. 61).

FPL states that under this

Amendment, FPL will transmit power and energy for Florida Power Corporation (Corporation) as is required by Corporation in the implementation of its interchange agreement with Seminole Electric Cooperative, Inc.

FPL requests that the proposed Amendment become effective no later than 60 days from the date of filing.

Copies of this filing were served upon the Florida Power Corporation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-0700 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-375-000]

Gulf States Utilities Co.; Refund Report

April 6, 1984.

Take notice that on March 5, 1984, Gulf States Utilities Company submitted for filing its Supplemental Refund Report based on the original Refund Report filed with the Commission on February 13, 1984.

Gulf States Utilities Company States that subsequent to the filing of the original Refund Report refunds of minor amounts have been determined appropriate.

These additional refunds resulted from corrections to billing records, retroactive implementation of the power factor adjustment included in the Settlement rates and recalculated quarterly interest rates.

These additional refunds were made by checks delivered on February 29, 1984.

Any person desiring to be heard or to protest this filing should file a comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 20, 1984. Comments will be

considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-0701 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF84-234-000]

Joseph F. Cremona; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

April 6, 1984.

On March 26, 1984, Joseph F. Cremona (Applicant), of 405 Railroad Avenue, East Rutherford, New Jersey 07073, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The bottoming-cycle cogeneration facility will be located at Northeastern Safety Products, Inc., 60 Dundaff Street, Carbondale, Pennsylvania. The primary energy source for the facility will be hot flue gases from two natural gas-fired glass furnaces. The hot flue gases will be routed through a waste heat recovery boiler to raise steam. The steam will be used to drive a steam turbine generator. The electric power production capacity of the facility will be one megawatt.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-0702 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-352-000]

Louisiana Power & Light Co.; Filing

April 6, 1984.

The filing Company submits the following:

Take notice that on March 29, 1984, Louisiana Power & Light Company (LP&L) tendered for filing an Electric Service Agreement dated March 22, 1984, with the Town of Vidalia, Louisiana (Town) which provides for electric resale service. LP&L states that the proposed Rate Schedule is the same as accepted for filing in FERC Docket Nos. ER81-457-000 and EL81-13-000 with the City of Winnfield, Louisiana (Rate Schedule FERC No. 70).

LP&L requests an effective date of April 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Town of Vidalia, Louisiana, and the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-0703 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP84-63-000]

Mississippi River Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 6, 1984.

Take notice that on April 4, 1984, Mississippi River Transmission Corporation (Mississippi) filed pursuant to section 4 of the Natural Gas Act and the regulations of the Federal Energy Regulatory Commission (Commission) thereunder proposed changes in its FERC Gas Tariff. Mississippi states the purpose of the filing is to reflect increases in rates for service rendered under its FERC Gas Tariff. The changes in rate level requested by Mississippi reflect a

decrease from currently effective rates but an increase in jurisdictional sales revenues of \$19.8 million annually when compared to settlement rates contained in an uncontested Stipulation and Agreement at Docket No. RP83-66 filed with the Administrative Law Judge on March 5, 1984.

Mississippi states the proposed rate change is necessary to recover increases in its jurisdictional cost of service, except gas costs which are reflected in the proposed filing on the basis of the average unit cost of purchased gas contained in Mississippi's PGA rate change effective March 1, 1984 at Docket No. TA84-1-25-002. Mississippi states that the principal causes of the rate increase are (1) increases in operating and maintenance expenses; (2) an increase in rate base due primarily to installation of new facilities; (3) an increase in the overall rate of return and related income taxes; and (4) a reduction in projected sales.

Copies of the filing have been served upon Mississippi's jurisdictional customers, and the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, and 385.214). All such motives or protests should be filed on or before April 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-0704 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP84-61-000]

National Fuel Gas Supply Corp.; Proposed Change in Tariff

April 6, 1984.

Take notice that National Fuel Gas Supply Corporation ("National") on March 30, 1984, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The changes, shown on First Revised Sheet Nos. 59, 60, 65, 66 and 67, are proposed to be effective April 1, 1984. In this

regard, National also requests waiver of Sections 154.38 and 154.22 of the Commission's Regulations.

The tariff sheet revisions provide for the flow-through of the jurisdictional portion of certain supplier refunds by crediting Account 191, Unrecovered Purchased Gas Cost, and a surcharge to clear Account 191. National is also proposing to amortize such refunds over a twelve-month period. Subsequently, refund credits to Account 191 will be reflected in National's demand and commodity rates on an "as received" basis. The change in the method of flowing through supplier refunds would apply to all of National's customers taking gas at a rate specified in First Revised Volume No. 1 of National's tariff.

Copies of the filing were served upon National's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before April 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 84-0705 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-353-000]

Pacific Power & Light Co.; Filing

April 6, 1984.

The filing Company submits the following:

Take notice that on March 30, 1984, Pacific Power & Light Company (PP&L) tendered for filing an application for an increase in rates for service provided under PP&L's FERC Electric Tariff, Original Volume No. 4, Service Schedules PPL-4 and PPL-5 (Tariff).

PP&L states that this filing provides for the inclusion of Cheyenne Light, Fuel and Power Company (Cheyenne) as a customer under Service Schedule PPL-4 of the Tariff. Service to Cheyenne is

currently provided under PP&L's Rate Schedule FERC No. 228.

PP&L further states that the proposed changes would increase revenues from jurisdictional sales and service by \$2,656,874 based on the 12-month period ending December 31, 1982.

PP&L requests an effective date of June 1, 1984.

Copies of this filing were served upon all parties hereto and a copy of the proposed revision and comparative billing information were served on the Public Service Commission, the State of Wyoming and the Public Service Commission of the State of Montana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-0706 Filed 4-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-347-000]

Portland General Electric Co.; Filing

April 6, 1984.

The filing Company submits the following:

Take notice that on March 29, 1984, Portland General Electric Company (PGE) tendered for filing its revised Average System Cost (ASC) which reflects PGE's Power Cost Adjustment (PCA) rate change effective with meter readings on and after October 31, 1983. The filing includes a revised Schedule 5 of Appendix 1, Exhibit C, to the Residential Purchase and Sales Agreement and the authorization for the PCA change from the Public Utility Commissioner of Oregon.

PGE states that the filing shows PGE's PCA adjustment to the BPA approved base ASC of 37.15 mills/kWh is (2.09) mills/kWh.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-0707 Filed 4-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-350-000]

Public Service Company of New Mexico; Filing

April 6, 1984.

The filing Company submits the following:

Take notice that on March 29, 1984, Public Service Company of New Mexico (PNM) tendered for filing Service Schedule H (Block Energy Sale) to the Interconnection Agreement (Rate Schedule FPC No. 9) between PNM and El Paso Electric Company (EPE).

PNM states that the service to be provided to EPE under Service Schedule H is for approximately 495 gigawatt hours of interruptible block energy at a minimum rate of delivery of 75 megawatts per hour. Interruptibility provisions are set out in Section 4 of the Agreement. The proposed service is scheduled to commence on April 1, 1984, shall continue through December 31, 1984, and will remain in effect from month to month thereafter until terminated by proper notice. The rates for service distinguish between Peak Hour and nonpeak hour energy deliveries and are specifically negotiated rates based upon a split savings concept and taking into consideration present competitive market factors.

PNM requests an effective date of April 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon EPE and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-0708 Filed 4-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-210-000]

Southern Company Services, Inc.; Order Granting Late Intervention, Denying Consolidation, Accepting Agreement for Filing Without a Hearing, and Terminating Docket

Issued: April 5, 1984.

On January 12, 1984, Southern Company Services, Inc. (SoCo Services) submitted for filing, as agent for Southern Companies, a Reliability Agreement among SoCo Services, Southern Companies, Middle South Services, Inc. (MidSo Services), Middle South, and Gulf States Utilities Company (Gulf States, or GSU). Notice of the filing was published in the Federal Register on January 30, 1984, with comments, protests, or motions to intervene due on or before February 7, 1984.³

Procedural Background

On June 7, 1983, in Docket No. ER82-579-000, SoCo Services filed, on behalf of Southern Companies, an Interchange Contract and a Unit Power Sales Agreement between Southern Companies and Gulf States, and a Transmission Facilities Agreement between Mississippi Power and Gulf States. Middle South initially filed a motion to intervene in the proceedings alleging that the proposed MPC-GSU 500 kV interconnection would be inadequate to implement the proposed interchange and unit sale agreements. Middle South further alleged that the

¹Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (Mississippi Power, or MPC) (collectively, Southern Companies, or SoCo).

²Arkansas Power & Light Company (Arkansas P&L), Louisiana Power & Light Company (Louisiana P&L), Mississippi Power & Light Company, and New Orleans Public Service, Inc. (collectively, Middle South, or MidSo).

³49 FR 3689.

planned transmission would result in a substantial continuous power flow over the transmission facilities of one or more of its member companies. Consequently, Middle South alleged that its facilities would be used without compensation. Middle South also raised concerns that such power flows would increase line losses, reduce power exchange capability, and impair reliability. On December 13, 1982, the Reliability Agreement was entered into. On December 27, 1982, Middle South filed a notice of withdrawal of its intervention, pursuant to Article 9 of the Reliability Agreement, stating that the Reliability Agreement had resolved its concerns in Docket No. ER82-579-000. On January 21, 1983, the Commission set the proposed agreements in Docket No. ER82-579-000 between Southern Companies and Gulf States for hearing on the cost of service issues. 22 FERC ¶61,047. Our order (at note 3) noted that, while the Reliability Agreement itself "may not be jurisdictional, it should be filed, under section 205 of the Federal Power Act, to the extent that it affects or relates to jurisdictional rates, charges, classifications and services."

Our January 21, 1983 order denied a motion to intervene of the City of Lafayette, Louisiana (Lafayette). However, on March 23, 1983, we granted Lafayette's request for rehearing, to allow intervention, on the basis that Lafayette had demonstrated in its request that it had an interest in the proceedings. 22 FERC ¶61,340, Docket No. ER82-579-001.

On December 8, 1983, the parties filed an offer of settlement wherein (1) Southern Companies, Gulf States, and the Commission's trial staff resolved various cost of service issues and (2) Southern Companies and Gulf States agreed to file the Reliability Agreement, with the reservation that no party to the Reliability Agreement admitted that the agreement presented matters under our jurisdiction. The settlement was contested by Lafayette but has been approved by the Commission.

Summary of Agreement

The Reliability Agreement provides for the installation of one or more "fixed tap phase shifter" transformers at Plant Daniel.⁴ The installation of phase-shifter transformers is intended to reduce the possibility of any adverse impact of parallel power flows over the transmission facilities of Middle South

as a direct result of the proposed interconnection agreement between Southern Companies and Gulf States. The Reliability Agreement also specifies certain future actions which the parties will undertake to limit other adverse impacts to Middle South, including (1) specific actions to be taken by the parties in the event of any outage of the proposed MPC-GSU interconnection;⁵ (2) future joint studies to assess the impact of SoCo-GSU transactions; (3) possible future additional interconnections between Middle South and Gulf States; (4) actions required of the parties in the event that Middle South's ability to operate on economic dispatch is constrained by loading on the existing Sheridan-El Dorado 500 kV line;⁶ (5) coordination of planning and operation of generation and bulk power transmission facilities;⁷ and (6) installation by Gulf States of an autotransformer at its Willow Glen generating station, or in the vicinity of Louisiana P&L's Evergreen Station.

SoCo Services states that neither it nor Middle South or Gulf States believes that the Reliability Agreement is subject to our jurisdiction, and that each reserves the right to contest the Commission's jurisdiction at any point during the term of that agreement. The Reliability Agreement has an original term beginning January 1, 1983 (Article 10).

Interventions

Gulf States filed a timely motion to intervene which raised no issues. MidSo Services, on its own behalf and as agent for Middle South, filed a timely protest and conditional motion to intervene. MidSo Services objects that the notice of filing in this docket made any suggestion that the Reliability Agreement is a jurisdictional matter subject to review or modification by the Commission. MidSo Services cites our

⁴For example, Gulf States agrees to increase generation on its own system, obtain emergency service from others, or shed load, and MidSo Services agrees to propose terms and conditions to accommodate the transfer of power between Southern Companies and Gulf States during such an outage (Article 4).

⁵Arkansas P&L agrees to exert its best efforts to complete construction of a second Sheridan-El Dorado 500 kV line by July 1, 1986. Gulf States, for its part, agrees to make available to MidSo Services enough energy to replace its pro rata share of the energy which would have been available through economic dispatch. Gulf States may provide that power (1) by reducing SoCo-GSU transactions, or (2) by providing its own or Southern Companies' power at a price equal to Middle South's "curtailed generation cost" (Article 6). This replacement energy clause terminates upon completion of the second 500 kV line, but not later than January 1, 1987.

⁷Article 7; see *infra*, discussion of Lafayette's intervention herein.

January 21, 1983 order (at note 3) for the proposition that the Reliability Agreement is not jurisdictional, but is required to be filed only for "informational purposes." MidSo Services states that a "rule of reason" must be applied in determining what constitutes a jurisdictional rate schedule to avoid denying management the flexibility necessary for utility operations. The matters addressed in the Reliability Agreement are asserted to be "operating details of the most technical sort," and to submit them to public investigation allegedly would deprive the parties of the right to efficiently manage and operate their systems. MidSo Services further states that the agreement does not concern rates, services, classifications, or practices that affect either nonparties or customers of the parties. For those reasons, MidSo Services requests that the Commission not assert jurisdiction, and urges that the Reliability Agreement not be set for investigation or hearing. In the event that the agreement is declared to be jurisdictional, MidSo Services has reserved the right to intervene in the proceedings and to amend its protest.

On February 8, 1984, Lafayette filed a motion for intervention out of time and for consolidation with Docket No. ER82-579-000. Lafayette requests an investigation regarding the lawfulness and reasonableness of the Reliability Agreement. Lafayette states that the Reliability Agreement, particularly Article 7, reflects the fact that the proposed SoCo-GSU transactions (embodied in the agreements and offer of settlement filed in Docket No. ER82-579-000) involve and necessitate broader regional coordination efforts. Lafayette further states that any investigation of the interchange and purchase agreements in Docket No. ER82-579-000 must take into account the broader regional impacts, of which the Reliability Agreement is evidence.

Article 7 includes a commitment for the parties to the Reliability Agreement to enter into an agreement for coordinating planning and the operation of their respective generation and bulk transmission facilities. Lafayette asserts that it should participate in negotiations for, and become a party to, such an agreement. Lafayette states that it made a request to that effect by letter dated July 5, 1983, but that the parties had not responded. According to Lafayette, the planning and coordination agreement reflects a relationship between certain members of the Southwest Power Pool (Pool)—Gulf States and Middle South—and non-Pool utilities—Southern Companies—which may affect the

⁴A phase shifter transformer is designed to advance or retard (*i.e.*, shift) the phase of load in order to influence the direction of circuit flows—in this case, to "force more energy flows" over the proposed 500 kV SoCo-GSU interconnection (Article 1).

operations of other Pool members, including Lafayette.

Lafayette believes that the Commission should investigate (1) whether or not the parties to the Reliability Agreement "intend to negotiate and enter into" a coordinating and planning agreement, and if so, (2) "what the agreement will encompass," (3) "how it will affect Lafayette and other [Pool] members," and (4) "whether the public interest would require broader participation." Lafayette contends that, pursuant to Commission Opinion No. 806, * Lafayette cannot be excluded from participating in the development of or becoming a party to any such agreement. Lafayette requests (1) that the Reliability Agreement be set for investigation and (2) that the offer of settlement in Docket No. ER82-579-000 be remanded for further consideration in connection with the Reliability Agreement to determine whether, in their totality, the agreements are unjust, unreasonable, or unlawfully discriminatory as to Lafayette. Lafayette also requests that the current proceedings be consolidated with those in Docket No. ER82-579-000.

On February 23, 1984, responses in opposition to Lafayette's motions for late intervention and consolidation were filed by SoCo Services, as agent for Southern Companies, by MidSo Services, on its own behalf and as agent for Middle South, and by Gulf States. The three responses made similar arguments: (1) No good cause has been shown to allow Lafayette to intervene out of time; (2) the Reliability Agreement is not subject to the Commission's jurisdiction; (3) the Commission, by establishing a separate docket for this filing, has implicitly rejected consolidation of the two proceedings; and (4) it is premature for Lafayette to seek intervention—there is no planning and coordination agreement now, and prior to such an agreement Lafayette has no affected interest to be protected. MidSo Services contends further that the Commission cannot expand the scope of coordination agreements (citing Opinion 806, above). SoCo Services also contends that Lafayette, as a party to Docket No. ER82-579-000 and by actual notice, was aware well in advance of Federal Register publication that the Reliability Agreement would be filed.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and

Procedure (18 CFR 385.214), the timely interventions of MidSo Services and Gulf States serve to make them parties to this proceeding, as no opposition has been received.

We note that Lafayette has cited only two reasons for its failure to file a timely intervention: (1) Its attorneys were met with unanticipated time delays; and (2) it had insufficient notice of the filing. Neither is a particularly compelling justification for delay. However, this proceeding is not at an advanced stage and the intervention was only one day out of time. Also, inasmuch as Lafayette is a party to the proceedings in Docket No. ER82-579-000 and the filing of the Reliability Agreement results from those proceedings, Lafayette's interest in the present filing is sufficient to show that its intervention is in the public interest. Therefore, we shall grant its request to intervene out of time.

As noted, Lafayette also requests (1) that the Commission set the Reliability Agreement for investigation, (2) that these proceedings be consolidated with those in Docket No. ER82-579-000, and (3) that the settlement in that docket be remanded for further consideration in light of the Reliability Agreement. Although Lafayette has requested investigation of the Reliability Agreement, the thrust of Lafayette's comments is directed to a future planning and coordination agreement referenced in Article 7 of the Reliability Agreement. Lafayette's main concern appears to be a desire to participate as a party in any negotiations pursuant to Article 7.

The anticipated planning and coordination agreement is not at issue in either the instant proceeding or Docket No. ER82-579-000.⁹ Pursuant to the terms of the Reliability Agreement, the parties have agreed to enter such an agreement at a future date, as a means of further resolving power flow and reliability problems. Lafayette's concerns relate to an agreement not yet consummated and not before the Commission. They are misplaced in the instant docket.

Moreover, Lafayette's pleading amounts to a request to expand the scope of the contemplated planning and coordination agreement. This request cannot be entertained. Lafayette cites Opinion No. 806, *supra*, as evidence of its right to participate in the development of a coordination and planning agreement. Opinion No. 806, however, dealt with an investigation of

a pooling agreement after it had been filed with the Commission. The Commission there stated that (1) there is no obligation for utilities to have a pooling agreement, but (2) if one does exist, it must be just, reasonable, and nondiscriminatory.¹⁰ Lafayette's concerns can be considered if and when the parties negotiate such an agreement and file it with the Commission.

We shall deny Lafayette's request to consolidate these proceedings with those in Docket No. ER82-579-000. As noted, the offer of settlement in Docket No. ER82-579-000 has been approved and that proceeding has been concluded. In any event, the matters presented in the present filing do not raise issues of fact which would have justified remand of the settlement in the earlier proceeding. As stated above, Lafayette's concerns are premature, and should be raised at another time.

SoCo Services has tendered the Reliability Agreement for filing, pursuant to the settlement agreement. However, the parties do not acknowledge the jurisdiction of the Commission with respect to the filing. Section 205 of the Federal Power Act, and § 35.1 of the Commission's regulations thereunder, require that a utility file with the Commission full and complete rate schedules. Such schedules must clearly specify, in addition to rates and charges for any jurisdictional transmission or sale of electric energy, the classifications, practices, rules, and regulations affecting such rates and charges, and all contracts which in any manner affect or relate to such rates, classifications, and services. The proposed Reliability Agreement sets forth procedures which materially affect the jurisdictional power transactions between the parties—under the agreements filed in Docket No. ER82-

¹⁰ See, *Central Iowa Power Cooperative, et al. v. F.E.R.C.*, *supra*, n. 8, 606 F.2d 1166-70, *esp.*, n. 39; see also, Section 202(a) of the Federal Power Act; Section 205(b)(2) of the Public Utility Regulatory Policies Act of 1978.

We note that Lafayette has intervened in numerous dockets, involving the facilities and power sales of various utilities, in an attempt to obtain wheeling services or transmission access. Although Lafayette has not specifically requested wheeling service in the context of the instant pleading, it appears that Lafayette's interest in the planning and coordination agreement reflects a belief that such an agreement could be a vehicle for obtaining wheeling services or access to transmission facilities. The Commission has frequently advised Lafayette that the proper forum for a request to compel wheeling services is an application under Sections 211 and 212 of the Federal Power Act. See, *Middle South Services, Inc.*, Docket No. ER82-483-000, 20 FERC ¶ 61,119 (1982); *Southern Company Services, Inc.*, Docket No. ER82-579-000 22 FERC ¶ 61,046 (1983); see also, *Gulf States Utilities Co., et al.*, Docket No. ER82-682-000 *et al.*, 20 FERC ¶ 61,354 (1982).

* *Mid-Continent Area Power Pool Agreement*, Opinion No. 806, 58 F.P.C. 2622 (1977), *reh. den.*; Opinion No. 806-A, 59 F.P.C. 1651 (1977), *aff'd sub nom.*, *Central Iowa Power Cooperative, et al. v. F.E.R.C.*, 606 F.2d 1156, *esp.* 1166-68 (D.C. Cir. 1979).

⁹ As noted above, Lafayette contested the settlement agreement in Docket No. ER82-579-000. Lafayette's objections to that settlement offer were similar to those it has raised in this case.

579-000 and sets out the practices and responsibilities of all of the parties to those transactions. Further, the agreement specifies the rate for replacement power to be provided to Middle South by Gulf States in the event that the SoCo-GSU transactions curtail the ability of Middle South to operate on economic dispatch, and the agreement also sets forth circumstances under which Middle South has agreed to file certain rates, terms, and conditions for jurisdictional services.¹¹ Under these circumstances, we find that the Reliability Agreement must be construed as a jurisdictional rate schedule. We further do not believe that requiring the Reliability Agreement to be on file with the Commission will interfere with any day-to-day operating decisions of the parties, as suggested in their pleadings.

Having determined that the agreement is properly before us, the Commission further finds that the provisions and rates contained in the agreement are reasonable. Inasmuch as Lafayette has raised no facts that would persuade us to the contrary and has presented no reasonable grounds on which to proceed to a hearing, we shall accept the agreement for filing to become effective without suspension or hearing. Since the Reliability Agreement relates directly to the agreements filed in Docket No. ER82-579-000, and the previously filed agreements are to become effective on June 1, 1984, we shall establish the same effective date for the Reliability Agreement.¹²

The Commission orders:

(A) The untimely intervention filed by the City of Lafayette, Louisiana, is hereby granted.

(B) Lafayette's motion to consolidate this proceeding with the proceedings in Docket No. ER82-579-000, and to remand for further consideration the settlement agreement therein, is hereby denied.

(C) The Reliability Agreement filed by Southern Company Services, Inc. is hereby accepted for filing to become effective, without suspension or hearing, as of June 1, 1984.

(D) Docket No. ER84-210-000 is hereby terminated.

(E) The Secretary shall promptly publish this order in the Federal Register.

¹¹ The proposed rate will be "at a price equal to the Middle South Companies' curtailed generation cost" (Article 8).

¹² See Attachment for rate schedule designations.

By the Commission.

Lois D. Cashell,
Acting Secretary.

Southern Company Services, Inc.

[Docket No. ER84-210-000]

Rate Schedule Designations

Southern Company Services, Inc.

(1) Supplement No. 9 to Rate Schedule FERC No. 59.

(2) Supplement No. 4 to Rate Schedule FERC No. 60.

Gulf States Utilities Company

(3) Supplement No. 8 to Rate Schedule FERC No. 135.

Alabama Power Company

(4) Supplement No. 5 to Rate Schedule FERC No. 158.

(5) Supplement No. 2 to Rate Schedule FERC No. 159.

Georgia Power Company

(6) Supplement No. 5 to Rate Schedule FERC No. 812.

(7) Supplement No. 2 to Rate Schedule FERC No. 813.

Gulf Power Company

(8) Supplement No. 5 to Rate Schedule FERC No. 76.

(9) Supplement No. 2 to Rate Schedule FERC No. 77.

Mississippi Power Company

(10) Supplement No. 4 to Rate Schedule FERC No. 135.

(11) Supplement No. 5 to Rate Schedule FERC No. 136.

(12) Supplement No. 2 to Rate Schedule FERC No. 137.

Arkansas Power & Light Company

(13) Rate Schedule FERC No. 107.

Louisiana Power & Light Company

(14) Rate Schedule FERC No. 73.

Mississippi Power & Light Company

(15) Rate Schedule FERC No. 267.

New Orleans Public Service Company, Inc.

(16) Rate Schedule FERC No. 9.

[FR Doc. 84-9709 Filed 4-10-84; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 1G2471/T438; PH-FRL 2559-7]

Chlorothalonil; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the combined residues of the fungicide chlorothalonil, and its metabolite in or on the raw agricultural commodity almonds.

DATE: This temporary tolerance expires December 31, 1984.

FOR FURTHER INFORMATION CONTACT:

By mail: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the *Federal Register* of March 10, 1982 (47 FR 10292), announcing the establishment of a temporary tolerance for the combined residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile, and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity almonds at 0.05 part per million (ppm). The company has also requested temporary tolerances to be established for the combined residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile, and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodities almond hulls at 0.2 part per million (ppm); the meat, meat byproducts, and fat of cattle, goats, hogs, horses, and sheep at 0.05 ppm; and milk at 0.1 ppm. This tolerance was issued in response to pesticide petition PP 1G2471, submitted by SDS Biotech Corporation, 7528 Auburn Road, Painesville, OH 44077.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit (54034-EUP-21), which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of this temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. SDS Biotech Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 31, 1984. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: March 28, 1984.

Douglas D. Campt,
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 84-9334 Filed 4-10-84; 8:45 am]

BILLING CODE 6560-50-M

[PP 1G2450/T439; PH-FRL 2559-8]

Dow Chemical Co. Extension of Temporary Tolerances

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for residues of the herbicide 3,6-dichloro-2-pyridinecarboxylic acid in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire July 31, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 253, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the Federal Register of February 16, 1983 (48 FR 6900), announcing the establishment of temporary tolerances for residues of the herbicide 3,6-dichloro-2-pyridinecarboxylic acid in or on the raw agricultural commodities forage grasses and forage grass hay at 100 parts per million (ppm); cattle (kidney), horse (kidney), sheep (kidney) at 1 ppm, cattle, horse, sheep (meat, fat, and meat byproducts except kidney) at 0.2 ppm. These tolerances were issued in response to pesticide petition PP 1G2450, submitted by Dow Chemical Company, P.O. Box 1706, Midland, MI 48640.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit (464-EUP-81), which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant materials were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Dow Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire July 31, 1985. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date

will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981, (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: March 28, 1984.

Douglas D. Campt,
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 84-9335 Filed 4-10-84; 8:45 am]

BILLING CODE 6560-50-M

[PP 5G1579/T437; PH-FRL 2559-6]

State of Florida; Extension of Temporary Tolerance

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for residues of the plant regulator 5-chloro-3-methyl-4-nitro-1H-pyrazole in or on the raw agricultural commodity oranges.

DATE: This temporary tolerance expires December 15, 1984.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the Federal Register of February 17, 1982

(47 FR 6994), announcing the renewal of a temporary tolerance for residues of the plant regulator 5-chloro-3-methyl-4-nitro-1H-pyrazole in or on the raw agricultural commodity oranges at 0.1 part per million (ppm). This tolerance was issued in response to pesticide petition PP 5G1579, submitted by State of Florida, Department of Citrus, P.O. Box 148, Lakeland, FL 33802.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit (43808-EUP-1), which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of this temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.
2. State of Florida must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 15, 1984. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the terms of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or

establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j))).

Dated: March 28, 1984.

Douglas D. Campt,
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 84-9333 Filed 4-10-84; 8:45 am]

BILLING CODE 6560-50-M

[[PP 3G2805/T440]; PH/FRL 2560-2]

Woolfolk Chemical Works, Inc.; Establishment of Temporary Tolerance

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for the plant growth regulator (2-chloroethyl) methylbis(phenylmethoxy)silane in or on the raw agricultural commodity peaches. This temporary tolerance was requested by Woolfolk Chemical Works, Inc.

DATES: Effective April 11, 1984. Expires March 13, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1800).

SUPPLEMENTARY INFORMATION: Woolfolk Chemical Works, Inc., P.O. Box 938, Fort Valley, GA 31030, has requested, in pesticide petition PP 3G2805 the establishment of a temporary tolerance for the plant growth regulator (2-chloroethyl)methylbis(phenylmethoxy)silane in or on the raw agricultural commodity peaches at 0.1 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 769-EUP-7 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.
2. Woolfolk Chemical Works, Inc. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires March 13, 1985. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j))).

Dated: March 28, 1984.

Douglas D. Campt,
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 84-9336 Filed 4-10-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50614; PH-FRL 2562-8]

**Issuance of Experimental Use Permits;
Dow Chemical Co., et al.****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT:

By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

464-EUP-81. Issuance. Dow Chemical Company, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 10,000 pounds of the herbicides 4-amino-3,5,6-trichloropicolinic acid as the triisopropanolamine salt and 3,6-dichloropicolinic acid as the monoethanolamine salt on rangelands and permanent grass pastures to evaluate the control of mesquite, weeds, and associated woody species. A total of 10,000 acres are involved; the program is authorized only in the States of New Mexico, Oklahoma, and Texas. The experimental use permit is effective from May 1, 1984 to July 31, 1985. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703-557-1830))

352-EUP-107. Extension. E.I. duPont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 3,741 pounds of the herbicide methyl 2-[[[4,6 dimethyl-2-pyrimidinyl] amino]carbonyl]amino]sulfonate on forests to evaluate the control of various weeds. A total of 9,976 acres are involved; the program is authorized in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West

Virginia, and Wisconsin. The experimental use permit is effective from April 20, 1984 to December 31, 1984. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

352-EUP-116. Issuance. E.I. duPont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 158 pounds of the herbicide methyl 2-[[[4-methoxy-6-methyl-1,3,5-triazin-2-yl] amino]carbonyl]amino]sulfonate on non-crop areas to evaluate brush control. A total of 2,528 acres are involved; the program is authorized in the States of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Wyoming. The experimental use permit is effective from May 1, 1984 to May 1, 1985. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

352-EUP-117. Issuance. E.I. duPont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 149 pounds of the herbicide methyl 2-[[[4-methoxy-6-methyl-1,3,5-triazin-2-yl] amino]carbonyl]amino]sulfonate on non-crop areas to evaluate the control of noxious weeds. A total of 4,768 acres are involved; the program is authorized in the States of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The experimental use permit is effective from May 1, 1984 to May 1, 1985. (Robert Taylor, PM 25, Rm. 245, CM#2 (703-557-1800))

1471-EUP-78. Extension. Elanco Products Company, 740 S. Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 6,875.2 pounds of the herbicide tebuthiuron on forests and non-crop areas to evaluate the control of various weeds. A total of 2,291 acres are involved; the program is authorized only in the States of Alabama, Arkansas, California, Florida, Georgia, Kansas,

Louisiana, Maine, Michigan, Minnesota, Mississippi, Nebraska, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from April 19, 1984 to April 19, 1986. (Robert Taylor, PM 25, Rm. 245, CM#2 (703-557-1800))

1471-EUP-87. Issuance. Elanco Products Company, 740 S. Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 2,500 pounds of the herbicide oryzalin and 2,500 pounds of the herbicide *N*-butyl-*N*-alpha,alpha-trifluoro-2,6-dinitro-*p*-toluidine on turf grasses to evaluate the control of various weeds. A total of 5,000 acres are involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from March 3, 1984 to March 3, 1985. (Robert Taylor, PM 25, Rm. 245, CM#2 (703-557-1800))

7501-EUP-2. Issuance. Gustafson, Inc., P.O. Box 220065, Dallas, TX 75222. This experimental use permit allows the use of 2,100 pounds of *N*-trichloromethylthio-4-cyclohexane-1,2-dicarboximide on field and sweet corn, sorghum, and soybeans to evaluate its use as a seed treatment. A total of 26,500 bushels are involved; the program is authorized only in the States of Illinois, Indiana, Iowa, Nebraska, Ohio, and Texas. The experimental use permit is effective from February 21, 1984 to December 31, 1984. (Henry Jacoby, PM 21, Rm. 229, CM#2 (703-557-1900))

35977-EUP-3. Issuance. Maag Agrochemicals, P.O. Box X, Vero Beach, Florida 32961. This experimental use permit allows the use of 56.3 pounds of the insect growth regulator ethyl 2-[(*p*-phenoxyphenoxy)ethyl]carbamate on aquatic non-crop areas to evaluate the control of mosquito larvae. A total of 1,275 acres are involved; the program is authorized only in the States of Arkansas, California, Florida, Massachusetts, Minnesota, and New Jersey. The experimental use permit is effective from March 1, 1984 to March 1, 1985. (Timothy Gardner, PM 17, Rm. 207, CM#2 (703-557-2690))

3125-EUP-183. Amendment. Mobay Chemical Corporation, P.O. Box 4913, Kansas City, MO 64120. Notice published in the Federal Register of March 23, 1983 (48 FR 12123) pertaining to the issuance of an experimental use permit, 3125-EUP-183, to Mobay

Chemical Corporation. At the request of the company, the permit has been amended to allow 5,500 additional acres and 200 additional pounds of the active ingredient. The experimental use permit now allows the use of 320 pounds of the insect growth regulator 2-chloro-N-[[[4-(trifluoromethoxy)-phenyl]amino]carbonyl]benzamide on forests and shade trees to evaluate the control of the gypsy moth larvae. A total of 8,500 acres are involved; the program is authorized only in the States of New Jersey and Pennsylvania. The experimental use permit is effective from March 1, 1983 to March 1, 1985. (Timothy Gardner, PM 17, Rm. 207, CM#2 (703-557-2690))

524-EUP-49. Extension. Monsanto Company, 1101 17th St., NW., Washington, DC 20036. This experimental use permit allows the use of 91,700 pounds of the herbicide alachlor on field corn to evaluate the control of weeds. A total of 45,850 acres are involved; the program is authorized in the States of Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, and Wisconsin. The experimental use permit is effective from March 7, 1984 to March 7, 1985. A permanent tolerance for residues of the active ingredient in or on corn has been established (40 CFR 180.249). (Robert Taylor, PM 25, Rm. 243, CM#2, (703-557-1800))

54034-EUP-21. Extension. SDS Biotech Corporation, 7528 Auburn Road, Painesville, OH 44077. This experimental use permit allows the use of 5,475 pounds of the fungicide chlorothalonil on almonds to evaluate the control of brown rot blossom blight and shothole. A total of 500 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from February 17, 1984 to December 31, 1984. A temporary tolerance for residues of the active ingredient in or on almonds has been established. (Henry Jacoby, PM 21, Rm. 229, CM#2 (703-557-1900))

264-EUP-66. Extension. Union Carbide, P.O. Box 12014, T. W. Alexander Dr., Research Triangle Park, NC 27709. This experimental use permit allows the use of 6,480 pounds of the insecticide aldoxycarb on tobacco to

evaluate the control of nematodes and various insects. A total of 2,160 acres are involved; the program is authorized only in the States of Georgia, North Carolina, South Carolina, and Virginia. The experimental use permit is effective from February 24, 1984 to February 24, 1985. (Jay Ellenberger, PM 12, Rm. 229, CM#2 (703-557-2386))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95-396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: March 27, 1984.

Douglas D. Campt,
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 84-9517 Filed 4-10-84; 8:45 am]

BILLING CODE 5550-50-M

[OPTS-53058; BH-FRL 2537-1]

Premanufacture Notices; Monthly Status Report for January 1984.

Correction

In FR Doc. 84-5959, beginning on page 8283, in the issue of Tuesday, March 6, 1984, make the following corrections:

- On page 8284, in table I, in entry 84-336, "sodium" should read "sodium" and after "hydroxide" add ", guanidine carbonate, magnesium bromide"
- On page 8284, in table II, in entry 84-249, "ethenyl" should read "ethenyl".
- Also on page 8384, in table II, in entry 84-262, in the first line, "5-furandione" should read "2,5-furandione".
- On page 8285, in table II, in entries 84-280 and 84-281, "□" should read "J".
- On page 8288, in table IV, in entries 83-1248 and 83-1325, "''" should read "''".
- On page 8288, in table V, in entry 80-146, "''" should read "''".

7. On page 8288, in table V, in entry 83-401 after the last word in the second column add a "—".

BILLING CODE 1505-01-M

[OPP-66108; PH-FRL 2563-8]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the names of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Distribution or sale of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: May 11, 1984.

ADDRESS: By mail, submit comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A sanitized copy of any material containing Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

FOR FURTHER INFORMATION CONTACT: By mail: Lela Sykes, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 718C, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-2126). **SUPPLEMENTARY INFORMATION:** EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
52-198	Super Westfoam Concentrate	West Chemical Products, Inc., 8 West 40th St., New York, NY 10018	Feb. 5, 1968.
72-177	Miller 1.6 Endrin Liquid (Emulsifiable)	Miller Chemical and Fertilizer Corp., Box 333, Hanover, PA 17331	June 29, 1964.
88-4	Kilonex Di-Sodium Methyl Arsonate Crabgrass Killer	The Hyponex Co., Inc., 3489 Sawmill Road, Box 4300, Copley, OH 44321	Apr. 25, 1956.
239-1247	Chevron Lindane Technical	Chevron Chemical Co., Ortho Division, 940 Hensley St., Richmond, CA 94801	Dec. 3, 1958.

Registration No.	Product name	Registrant	Date registered
239-2084	Ortho Pre-Emergence Weed Killer	do.	Apr. 21, 1956.
276-7	Wilcox "Will-Phena" Disinfectant	Sanford Supply Co., 160 West Smith St., Cory, PA 16407	Mar. 29, 1967.
279-277	Niagara Lindane 1 Dust	FMC Corp., Agricultural Chemical Division, 2000 Market St., Philadelphia, PA 19103.	May 18, 1948.
279-467	Niagara Lindane 25 Spray	do.	July 20, 1949.
279-2148	Lindane 75 Spray	do.	Oct. 7, 1964.
279-2528	Lindane Insecticide	do.	April 3, 1967.
279-2887	Endrin Miscible	do.	Dec. 1, 1971.
334-269	GCC-755 (DSMA) Crabgrass Killer	Hysan Corp., 919 W. 38th St., Chicago, IL 60609	Nov. 3, 1967.
400-211	DePester Toxaphene-L Stock Spray and Dip	Uniroyal Chemical, Division of Uniroyal, Inc., 74 Amity Road, Bethany, CT 06525.	Dec. 29, 1982.
400-270	Insecticide Lindane Powder Dusting 25 lbs.	do.	Do.
400-288	De-Pester Livestock Dust	do.	Dec. 29, 1982.
453-280	Timbercoat 95 Insecticide	Wood Treating Chemicals Dept., Koppers Co., Inc., 5137 Southwest Ave., St. Louis, MO 63110.	May 18, 1972.
506-60	Di-met Liquid Kills Crabgrass	O.E. Linck Co., Division Walco-Linck Corp., 1234 State Highway 46, Clifton, NJ 07011.	June 6, 1955.
506-69	Linck's Di-met 100% Powder	do.	Feb. 27, 1958.
506-72	Linck's Liquid Di-met Plus 2	do.	Do.
506-89	Linck's Di-met 100% Powder DG	do.	January 26, 1962.
506-90	Linck's Di-met Plus 2 Powder DG 2, 4-D Wetting Agent Added	do.	Do.
506-96	Linck's Di-met Special with AMA Kills Dallis Grass	do.	May 18, 1962.
506-97	Linck's Di-met Liquid Kills Dallis Grass	do.	May 15, 1962.
506-98	Linck's Liquid Di-met Plus 2 Kills Dallis Grass and Lawn Weed	do.	June 13, 1962.
539-100	Sears Liquid Crabgrass Killer Containing Disodium Methyl Arsonate	Sears, Roebuck and Co., 925 S. Homan Ave., Chicago, IL 60607	Mar. 3, 1958.
554-127	Agasco DB-Green-A	Agasco Inc., Box 458, Grand Forks, ND 58201	Jan. 3, 1972.
655-599	Prentox Arsenate of Lead	Prentiss Drug and Chemical Co., Inc., C. B. 2000, 21 Vernon St., Floral Park, NY 11001.	Feb. 23, 1956.
655-619	Prentox Termite Invader Concentrate	do.	Apr. 22, 1969.
729-49	Prelox	Gulf Oil Chemicals Co., P.O. Box 40130, Overland Park, KS 66204	Apr. 11, 1974.
769-356	Security Botran-Sulphur Peach Dust 6-78	Woolfolk Chemical Works, Ltd., East Main St., Fort Valley, GA 31030	May 19, 1966.
769-358	Security Botran Captain Peach Dust	do.	May 31, 1966.
787-4	Germisol Concentrated Disinfectant	Adco, Inc., 900 West Main, Sedalia, MO 65301	Feb. 9, 1948.
802-226	Miller's Dairy Cattle Livestock and Barn Spray	The Chas. H. Lilly Co., 7737 NE Killingsworth, Portland, OR 97218	Aug. 4, 1958.
802-433	Miller Rose and Flower Spray	do.	Sept. 4, 1969.
802-475	Miller's General Weed Killer	do.	Jan. 12, 1973.
829-98	SA-50 brand 1.6 Endrin Emulsible Concentrate	Southern Agricultural Insecticides, Inc., P.O. Box 218, Palmetto, FL 33551	Mar. 6, 1959.
1019-9	Le Gear Flea and Tick Powder	Le Gear, a Division of O'Neal, Jones and Feldman, 2510 Metro Blvd., St. Louis, MO 64043.	May 12, 1946.
1022-402	Chapman Daban 1	Chapman chemical Co. Box 9158, Memphis, TN 38109	Apr. 13, 1967.
1022-439	Chapman DSMA-100	do.	July 19, 1968.
1117-24	Myzin Smear	Fort Dodge Lab., Division of American Home Products Corp., Box 518, Fort Dodge, IA 50501.	May 29, 1951.
1124-55	Franklin's Bowl Cleaner	Purex Corp. Ltd., 24600 S. Main St., Wilmington, CA 90744	Dec. 11, 1972.
1202-197	Puregro Karathane Lindane Dust 1-1	Puregro Co., 1276 Halyard Drive, West Sacramento, CA 95691	Oct. 14, 1971.
1202-283	Puregro Cryolite-Sulfur 45-50 Dust	do.	July 2, 1975.
1202-297	Puregro Malathion Cryolite 5-50 Dust	do.	June 9, 1975.
1251-14	Pies-ur-Mint Disinfectant	Hedco Chemical Corp., 415 Harvester Court, Wheeling, IL 60090	Aug. 2, 1963.
1339-151	Cotton States Sevin Super Tomato Dust	Cotton States Chemical Co., P.O. Drawer 157, West Monroe, LA 71291	Nov. 3, 1960.
1348-74	Selco Brand Lindane 75% Wettable Powder	Selco Supply Co., 650 "O" St., Greeley, CO 80631	Dec. 20, 1954.
1348-93	Selco Lindane 25% Wettable	do.	May 20, 1955.
1348-106	Selco Selcotox Livestock Spray Toxaphene and Lindane	do.	Feb. 21, 1958.
1348-114	Selco Lindane Emulsifiable	do.	June 25, 1956.
1421-163	Ramer R-400 Crabgrass Killer	Dettelbach Chemical Corp., 2676 Apple Valley Road, Atlanta, GA 30319	June 13, 1968.
1526-442	Botran 6% Dust	Arizona Argochemical Co., P.O. Box 21537, Phoenix, AZ 85036	Dec. 6, 1967.
1691-89	Detergent, Sanitizer General Purpose Super Conc.	Chemical Compounding Corp., 680 Elton Ave., Riverhead, NY 11901	Apr. 1, 1963.
1770-58	Griffin's Phen-All 7 Cleaner	Griffin Brothers, Inc., 1806 SE Holgate, Portland, OR 97202	May 23, 1960.
1778-35	Wesco-Phene Bactericide	Western Chemical Co., 615 Albemarle St., St. Joseph, MO 64501	Jan. 10, 1958.
1778-48	Neophene	do.	May 25, 1972.
1778-50	Neophene #2 Concentrated Disinfectant Detergent	do.	Apr. 19, 1973.
1927-1	Terminix 3-4	Terminix International, Inc., P.O. Box 17167, Memphis, TN 38117	Dec. 4, 1950.
1990-69	Coop DSMA Crabgrass Killer	Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116	Jan. 2, 1958.
1990-340	Coop Herban 62 Cotton Herbicide Herban-MSMA-Surfactant	do.	Jan. 23, 1969.
1990-343	Coop Dyrene Turf Fungicide 50% Wettable Powder	do.	Feb. 10, 1969.
1990-408	Sure Death Brand Crabgrass Killer	do.	June 25, 1981.
1990-453	Sure Death Brand MSMA Plus Surfactant Herbicide for Post Emergence Weed Control in Non-Crop Areas and Lawns and Ornamental Turf	do.	do.
1990-466	Sure Death Brand Old Yeller Granules	do.	July 17, 1967.
1990-480	Sure Death Brand MSMA Plus Surfactant Herbicide for Post Emergence Weed Control in Cotton	do.	June 25, 1981.
2139-106	Bromox 50 WP	Nor-Am Agricultural Products, Inc., 350 West Shuman Blvd. Naperville, IL 60568.	Oct. 30, 1972.
2139-109	Soyex 4 EC	do.	Sept. 21, 1972.
2139-116	Soyex Technical	do.	Oct. 11, 1973.
2342-839	20% Lindane Spray	Kerr-McGee, Chemical Corp., Kerr-McGee Center, Oklahoma City, OK 73125	Aug. 24, 1973.
2382-22	Carson's Lindane 25% Wettable Powder	Carson Chemicals, Inc., P.O. Box 466, New Castle, IN 47362	May 7, 1962.
2382-28	Cage Cleaner Mint Fragrance	do.	Sept. 9, 1963.
2382-57	Equi-Dust	do.	Jan. 20, 1971.
2382-62	Lin-Ro	do.	Oct. 18, 1973.
2434-4	Merco Spice Lemon Disinfectant	Mercury Supply Co., P.O. Box 7117, Nashville, TN 37210	July 31, 1967.
2666-30	Cornell Ectoparasite Powder	Cornell Chemical and Equipment Co., Inc., 712 Evelyn Ave., Linthicum Heights, MD 21090.	May 12, 1960.
2749-153	CDAA 20 G Selective Herbicide	Aceto Agricultural Chemicals Corp., 126-02 Northern Blvd., Flushing, NY 11368.	Mar. 13, 1974.
2749-175	CDAA 4 LB. Concentrate Herbicide	do.	Sept. 12, 1972.
2749-254	Actox Granular Selective Weed Killer for Corn	do.	Oct. 30, 1973.
3835-39	Oxford WK-82	Oxford Chemicals, Inc., Box 80202, Atlanta, GA 30368	May 8, 1957.
4077-20	ORB Roach and Ant Bomb	ORB Industries, Inc., P.O. Box 1067, Upland, PA 19015	July 28, 1957.
4077-21	ORB Moth Control	do.	Do.
4077-55	Linspray Extra #129 Roach and Ant Bomb with Lindane and DDVP	do.	July 24, 1983.
4185-121	Smith-Douglas 20% Lindane Emulsifiable	Smith-Douglas, Inc., P.O. Box 419, Norfolk, VA 23501	Apr. 8, 1963.
4185-168	Nutro Rose and Floral Dust	do.	Mar. 11, 1964.

Registration No.	Product name	Registrant	Date registered
4185-323	Nutro Azalea Evergreen Spray (Aerosol)	do.	Mar. 23, 1967.
4185-427	Nutro Post Emergency Crabgrass Killer	do.	May 21, 1969.
4185-435	Borden Nutro Liquid Rose Spray	do.	Oct. 31, 1969.
5135-3	Erian Pine-All Disinfectant COEF 5	UOP, Inc., Water Services Division, 700 S. Flower St., Burbank, CA 91502	May 15, 1957.
5778-7	Rose Spray	Gro Chemical Co., 3530 NW. 31st St., Miami, FL 33142	Oct. 17, 1961.
6033-6	D.C.C. 3-in-1 Cleaner Concentrate	Mid-Continent Chemical Co., P.O. Box 7277, 39th St., Station, Oklahoma City, OK 73112	Oct. 25, 1963.
6233-4	Doricide	Amador Chemical Corp., P.O. Box 4081, Stockton, CA 95204	May 31, 1962.
7182-5	Destun 4S Cotton Herbicide	Medical Products Division/3M, 3M Center, Bldg., 230-3 St. Paul, MN 55144	May 15, 1975.
7738-1	Lothiol Medicated Shampoo for Dogs	Winthrop-Veterinary Sterling Animal Health Products, Division of Sterling Drug, Inc., 90 Park Ave., New York, NY 10016	Mar. 5, 1963.
9847-8	Masury-Columbia Hospital Product Hexacide Phenolic Germicide	Masury-Columbia, 2150 N. 15th Ave., Melrose Park, IL 60160	Sept. 1, 1951.
9647-17	Myco 30" Dust Mop	do.	Apr. 18, 1973.
9779-25	Riverside DSMA	Riverside Chemical Co., a Subsidiary of Terra Chemicals International, Inc., P.O. Box 1828, Sioux City, IA 51102	Aug. 30, 1967.
9779-97	Riverside Herban 62	do.	Apr. 24, 1968.
9925-1	Ellison Mint Disinfectant	Ellison Sanitary Supply Co., Inc., P.O. Box 350, LaFollette, TN 37705	Jan. 31, 1968.
10549-1	Staphene Deodorizing Disinfectant	Figli's Inc., 2525 South Roddis Ave., Marshfield, WI 54449	Feb. 7, 1970.
11694-6	No. 200 Crabgrass Killer	Dymon, Inc., P.O. Box 6175, Kansas City, KS 66106	Apr. 10, 1972.
11694-12	Bochlor 17	do.	May 16, 1972.
13801-7	Atrazine Technical	Mr. Charles C. Yeager, 127 Crestmoor Circle, Pacifica, CA 94044	Oct. 26, 1972.
31967-1	Clover Rosch Powder	Cloverland Hardware, 3849 South Court St., Montgomery, AL 36105	June 4, 1973.
33371-1	Kote-Glo Flea and Tick Concentrated Shampoo for Dogs	N/R Laboratories, Inc., 900 East Franklin St., Centerville, OH 45459	Feb. 6, 1975.

The Agency has agreed that each cancellation shall be effective May 11, 1984 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Sale or distribution of any quantity of any of these products produced after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66108]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in Rm. 236, CM#2, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended, 86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136)

Dated: April 4, 1984.

Edwin L. Johnson,
Director, Office of Pesticide Programs.

[FR Doc. 84-9683 Filed 4-10-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-357]

American Federal Savings and Loan Association of Ada, Ada, Oklahoma; Final Action, Approval of Conversion Application

Notice is hereby given that on March 12, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of American Federal Savings and Loan Association of Ada, Ada, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

Dated: April 5, 1984.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 84-9746 Filed 4-10-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-358]

Bankers First Federal Savings and Loan Association, Augusta, Georgia; Final Action, Approval of Conversion Application

Notice is hereby given that on March 13, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Bankers First Federal Savings and Loan Association, Augusta, Georgia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

Dated: April 5, 1984.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 84-9745 Filed 4-10-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-355]

Centennial Federal Savings and Loan Association, Durango, Colorado; Final Action, Approval of Conversion Application

Notice is hereby given that on March 14, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Centennial Federal Savings and Loan Association, Durango, Colorado, for

permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 170, Topeka, Kansas 66601.

Dated: April 5, 1984.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-0748 Filed 4-10-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-356]

Dollar Federal Savings Bank, Hamilton, Ohio; Final Action, Approval of Conversion Application

Notice is hereby given that on March 14, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Dollar Federal Savings Bank, Hamilton, Ohio, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Cincinnati, P.O. Box 598, Cincinnati, Ohio 45201.

Dated: April 5, 1984.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-0747 Filed 4-10-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-354]

First Federal Savings and Loan Association of Ridgecrest, Ridgecrest, California; Final Action, Approval of Conversion Application

Notice is hereby given that on March 12, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Ridgecrest, Ridgecrest, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW.,

Washington, D.C. 20552 and at Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 58527, Peachtree Center Station, Atlanta, Georgia, 30343.

Dated: April 5, 1984.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-0749 Filed 4-10-84; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. T-4137-1.

Title: Portland of Oakland and Italia S.p.A. di Navigazione, amended Terminal Lease Agreement.

Parties:

Port of Oakland (Port)

Italia S.p.A. di Navigazione

Synopsis: Agreement No. T-4137-1 amends the basic agreement between the parties which covers the lease of marine facilities at the Port's Outer Harbor Terminal Area, Berth 6. The amendment provides for a vessel call maximum for dockage charges of 25 vessel calls in a contract year after which dockage charges will not be assessed for the remainder of the contract year.

Filing Party: John E. Nolan, Assistant Port Attorney, Port of Oakland, 86 Jack London Square, Post Office Box 2064, Oakland, California 94604.

Agreement No. T-4059-1.

Title: San Francisco Port Commission and California Stevedore and Ballast Company, Amends Basic Operations Agreement.

Parties:

San Francisco Port Commission (Port)
California Stevedore and Ballast Company (CS&B).

Synopsis: Agreement No. T-4059-1 amends the basic agreement which provides for the operation by CS&B of an area within Pier 80, Shed D, in the Port of San Francisco. The amendment provides for the insertion of a new paragraph under Item 8 of the original agreement, which will allow CS&B to provide rates on a contract basis at levels lower than those found in the Port's tariff.

Filing Party: Frederick L. Shreve II, Hill, Betts and Nash, 1220 Nineteenth Street, NW., Suite 302, Washington, D.C. 20036.

Agreement No. T-4174.

Title: The Port of Palm Beach and Birdsall, Inc., Lease and Terminal Agreement.

Parties:

The Port of Palm Beach
Birdsall, Inc.

Synopsis: Agreement No. T-4174 provides that Birdsall, Inc., will lease from the Port of Palm Beach a parcel of land located in the City of Riviera Beach, Palm Beach County, Florida. The premises will be used for the purpose of handling Birdsall's containers and other general cargo incoming and outgoing. The term of the agreement commences upon Commission approval, and it will expire January 31, 1989, with options to renew for 4 periods of 5-years' each.

Filing Party: Randall V. Adams, Traffic/Accounting, Port of Palm Beach, Post Office Box 9935, Four East Port Road, Riviera Beach, Florida 33404.

By order of the Federal Maritime Commission.

Dated: April 6, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-0759 Filed 4-10-84; 8:45 am]

BILLING CODE 6730-01-M

Section 15 Agreement; Cancellation

Agreement No. 10355.

Title: The Bank and Savill Line/Shipping Corporation of New Zealand Joint Service.

Parties:

The Bank and Savill Line, Ltd.
The Shipping Corporation of New Zealand, Ltd.

Synopsis: By notice received at the Commission on March 21, 1984, the parties to the agreement announced its cancellation effective May 30, 1984.

Filing Party: William H. Fort, Esquire, Kominers, Fort, Schlefer and Boyer, 1776 F Street, NW., Washington, D.C. 20006.

By Order of the Federal Maritime Commission.

Dated: April 6, 1984.

Francis C. Hurney,
Secretary.

[FR Doc. 84-9755 Filed 4-10-84; 8:45 am]

BILLING CODE 6730-01-M

Termination of Agreement No. T-2649

Agreement No. T-2649.

Title: Matson Terminals, Inc. and Nippon Yusen Kaisha.

Parties:

Matson Terminals, Inc.
Nippon Yusen Kaisha.

Synopsis: The above referenced agreement has been terminated by Agreement No. T-4168 which became effective on March 28, 1984.

Filing Party:

David F. Anderson, Matson Navigation Company, 333 Market Street, Post Office Box 7252, San Francisco, California 94120.

By Order of the Federal Maritime Commission.

Dated: April 6, 1984.

Francis C. Hurney,
Secretary.

[FR Doc. 84-9757 Filed 4-10-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Chesapeake Bank Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of

Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 2, 1984.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Chesapeake Bank Corporation*, Chesapeake, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Chesapeake Interim Bank, Chesapeake, Virginia, successor by merger to Chesapeake Bank & Trust, Chesapeake, Virginia.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis Missouri 63166:

1. *Eagle Bancorporation, Inc.*, Highland, Illinois; to acquire 97.48 percent of the voting shares of Hickory Point Bank, Forsyth, Illinois; 76.84 percent of the voting shares of Harrisburg Bancshares, Inc., Harrisburg, Illinois, and thereby indirectly acquire Harrisburg National Bank, Harrisburg, Illinois; and 69.8 percent of the voting shares of First Rantoul Corporation, Rantoul, Illinois, and thereby indirectly acquire First National Bank of Rantoul, Illinois.

2. *Eagle Bancorporation, Inc.*, Highland, Illinois; to merge with EBI, Inc., Highland, Illinois, and thereby indirectly acquire Eagle Bank of Charleston, Charleston, Illinois; and to merge with American Eagle Bancorp, Inc., Glen Carbon, Illinois, and thereby indirectly acquire Cottonwood Bank and Trust Company, Glen Carbon, Illinois.

Board of Governors of the Federal Reserve System, April 5, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-0656 Filed 4-10-84; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corporation, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank

Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 1984.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary Norwest Alliance Systems, Inc., Minneapolis, Minnesota, in management consulting activities by providing advice to nonaffiliated bank and nonbank depository institutions, serving the states of Minnesota, Wisconsin, Iowa, North Dakota, South Dakota, Montana, Nebraska, Illinois, Missouri, Kansas, Colorado, Wyoming, Michigan, Idaho, Washington, Oregon, and Oklahoma.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Independent Bancorp*, Lynden, Washington; to engage *de novo* through its subsidiary, Snapper, Shuler, Kenner

Insurance, Inc., Lynden, Washington, in acting as a general insurance agency in communities with populations not exceeding 5,000. These activities would be conducted in the towns of Lynden and Everson, Washington, and surrounding rural areas. Comments on this application must be received not later than May 1, 1984.

Board of Governors of the Federal Reserve System, April 5, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-9857 Filed 4-10-84; 8:45 am]

BILLING CODE 8210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of the Assistant Secretary for Planning and Evaluation; Retirement Policy Studies; Applications for Grants

Pursuant to Section 1110A of the Social Security Act, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications from researchers affiliated with non-profit organizations for grants for research and policy analysis in the area of retirement policy.

A. Type of Application Requested

This announcement seeks applications for projects to develop and conduct a program of research and analysis pertaining to retirement and related issues. The following paragraphs describe several high priority areas for research; the questions they contain are intended as illustrations of specific concerns in these areas. Other, closely related issues may also be included if they are shown to be relevant to the general area of interest.

1. *High priority areas* for which applications are most desired are as follows:

a. *Women and pensions.* Substantial public concern has recently been voiced about women's coverage by and benefits from employer pensions. This concern relates partly to the adequacy of pension benefits as a component of retirement income for women, particularly as work and marital patterns change.

Differences in patterns of pension acquisition among men and women appear to be traceable partly to differences in labor market behavior. Characteristic patterns of female labor market behavior, while changing over time, tend to be more interrupted than those of men. In addition, female workers are disproportionately

concentrated in jobs with limited pension offerings. Both of these factors tend to limit coverage and size of benefits available to women. A number of approaches (particularly changes in the Employee Retirement Income Security Act (ERISA)) have been proposed to improve this situation.

Specific questions in this area that appear worthy of further investigation include:

(1) To what extent do women, perhaps taking account of their expected pattern of labor market attachment and of the structure of pensions, elect to hold jobs where pensions are a small part of total compensation?

(2) What would be the effects of changing the vesting and participation requirements under ERISA?

(3) What would be the effects of requiring indexing (or other adjustment) of the wage histories on which benefit calculations are based in the case of vested employees who leave the firm in advance of retirement?

(4) Which plan participants do not elect joint-and-survivor options at retirement? Does refusal of this option tend to lead to economic hardship among widows?

b. *Firm decisions on fringe benefits.* We are interested in how taxes influence the compensation structure firms offer their employees. For example, to what extent would a tax cap on fringe benefits as a whole (that is, a ceiling on the amount of fringe benefits employers can provide without it being taxed as income to employees) affect the mix of such compensation, taken as a whole, and wages? How would such a cap affect the mix of fringe benefits? Would a tax cap on a specific benefit (e.g., health insurance) lead employers to shift their fringe benefit packages toward other benefits, particularly benefits that would remain tax-free?

Answering this sort of question appears to require addressing a number of general questions about employee compensation practices. For example, how do firms decide what mix of fringe benefits to offer their employees? What factors influence these decisions, including costs, employee desires, government policy, etc? How responsive are these decisions likely to be to changes in these factors? Answers to these questions should be of interest to providers of health insurance, pensions, and other fringe benefits; to employers; and to recipients. We are interested in theoretical analysis of these issues coupled with empirical testing of that theory; theoretical models that are testable with data which may not now exist, but which could be developed at a

reasonable cost, are also of potential interest.

c. *Savings for old age.* How households decide how much to save remains an important research concern. Many analysts believe that retirement income programs, including social security, depress private savings and thus slow the rate of growth in the economy. If this were true and the effect were substantial, society might wish to further encourage private savings alternatives to social security, but the size of the problem remains a matter of dispute. Another issue of concern is the adequacy of private savings, with or without government intervention, to support the elderly in retirement. Analysis of these issues depends crucially on understanding the saving decisions of households.

Previous investigation of this topic has been dominated by the economics literature that employs the "life-cycle model." Recent appraisals of this literature have generally found it to be inconclusive. We therefore believe that it may be fruitful to encourage research that adopts alternative approaches to these issues. We are primarily interested in studies that incorporate one or more of the following elements:

(1) *Precautionary motives:* People save to insure against events such as transitory income fluctuations or entering a nursing home. Such saving might be influenced by factors affecting individual perceptions of risk, such as subjective predictions of future health status or availability of employer-sponsored post-retirement health insurance. Precautionary motives should influence the pattern of wealth holding with age and our evaluation of the adequacy of the wealth that households have available for retirement needs.

(2) *Intergenerational transfers:* We should know more about how much of saving by different groups is caused by the desire to leave bequests, whether bequests are sensitive to the wealth of the heirs, and how support provided by children for aged parents (or its prospect) affects the saving behavior of the parents. Finally, saving for children's education (i.e. "human capital bequests") may affect wealth accumulation and composition.

(3) *Wealth composition:* Wealth components differ in liquidity, taxes, transferability, etc. A model of saving behavior might better explain the reasons for wealth holding by focusing on differences in the portfolios of assets and debts held by households.

(4) *Alternative models of decision making under uncertainty:* Many analysts believe that households do not

create detailed lifetime consumption plans based on rational expectations in the face of such uncertainty, but, instead, exhibit "bounded rationality" or "myopic" behavior. For such a household, the saving decision might be made on the basis of rules of thumb, habit, information about the near future, information about the most likely future contingencies, or some combination of these.

Projects in this area should endeavor to adopt fresh approaches, not just minor variations on the standard life-cycle model. Applications could be for projects to develop alternative theories, to perform empirical tests of the predictions of such models, or to assemble empirical evidence directly relevant to the development of alternative theories.

d. Tax-deferred retirement savings accounts. Attention has recently focused on tax-deferred retirement savings accounts (such as individual retirement accounts (IRAs), Keogh accounts, and 401k accounts) as vehicles for increasing aggregate savings available for investment in the economy and for facilitating private provision of adequate retirement income. The adequacy of private provision, of course, affects the role public programs, such as social security, are called on to play in providing adequate retirement income.

Investors, employers, and financial institutions have been rapidly expanding their use of IRAs and Keogh accounts. The law governing these vehicles has recently been liberalized, and further liberalizations are under consideration. In the past, IRA and Keogh accounts have been used mostly by those with relatively high income. As further liberalizations are considered, it will be important to have better information on who now uses these accounts and why, and on the extent to which expansion of these accounts would encourage net new savings. Specific questions that are appropriate in this context include:

- (1) What determines who participates in tax-deferred retirement savings accounts?
- (2) What determines how much is deposited in these accounts? What is the distribution of deposited amounts across participants?
- (3) Do these deposits represent rearrangements of existing portfolios or new savings?
- (4) What would be the effect of raising the upper limits on these accounts on aggregate savings and on the distribution of participation?

e. Retirement benefits in divorce settlements. Concern for equity and for the adequacy of the income of divorced

spouses has led to a number of proposals that would result in more explicit or automatic sharing of retirement benefits that derived from work during the life of a marriage. For instance, proposals for "earnings sharing at divorce" might require that Old Age, Survivors, and Disability Insurance (OASDI) earnings records for the period of a marriage be averaged between the two spouses and that the average, rather than the amount actually earned by each spouse, be credited to the two accounts for benefit-calculation purposes. The division of employer-provided pension benefits, both current and expected, has also been a source of concern.

At present, the law does not permit alimony judgments or property settlements to allocate OASDI earnings records. One alternative to automatic earnings sharing at divorce would be to permit inclusion of full or partial earnings sharing as an element of alimony judgments or property settlements made through the State judicial process. The extent to which these settlements may already take account of expected retirement benefits does not appear to be known. Practice in this area, of course, may vary substantially depending on State law, for example whether States follow community-property principles.

Specific questions in this area that investigators may wish to consider include:

- (1) What factors determine the outcomes in alimony judgments and property settlements now made by the legal system in separation and divorce cases? What assets and income flows are taken into account? What other factors, economic and otherwise, influence the outcomes with regard to property? Do major differences in State law matter?

- (2) So social security (OASDI) benefits or expectations of benefits appear to be taken into account implicitly in these judgments and settlements? Similarly, are employer-provided pension benefits taken into account? Do major differences in State law matter? What evidence can be presented on these points?

- (3) What would be the effects if changes in the law made it possible to allocate earnings records explicitly? How would these effects compare to those of an automatic procedure administered at the national level?

Empirical investigation of this topic appears to require good data covering alimony and property settlements, with enough cases and enough detail to reveal if OASDI and pensions are affecting the outcomes. The April 1979

Current Population Survey supplement on divorced people, which has been merged with the March supplement on income, is a potential source, and other sources may also be useful. If data currently available are not adequate to provide solid answers to these questions, development of models with testable conclusions may give indications of the needs for further data collection.

f. Who pays the payroll tax? While the taxes which finance OASDI are legally paid half by employees and half by employers, economists have long argued that the actual burden of such taxes may be allocated very differently through adjustments in wages. In considering the effects of policy choices such as increasing the maximum tax per employee payable by employers (perhaps even to the extent of making all wages and salaries taxable to the employer), employers and employees should find it useful to know how much of the actual tax burden is borne by employees, and how much takes the form of reduced profits or increased prices.

The original intuition of many economist was that employees would bear almost all the burden, because it is believed that the decision to work is not very sensitive to the wage offered (i.e. labor supply is inelastic). For several reasons, however, this might not be true. Marginal workers (such as households' secondary earners) are thought to be quite sensitive to wage changes. Also, the downward adjustment of wages after a tax change might be very slow, so that it might be a long time before employees finally suffer all of the burden. The question of who bears the burden of the payroll tax must therefore be settled by empirical research.

Previous work on this subject has generally used either international cross-sectional analysis or time-series macroeconomic models employing the Phillips curve with a payroll tax variable. The results of these studies have been contradictory and, in some cases, controversial. Even at their best, such analyses are less compelling than evidence based on less aggregated data. More recently, a few studies have employed household longitudinal data to study tax incidence. While this approach appears to be potentially very fruitful, it has not yet yielded definitive results because of data problems as well as the complexity of the problem. In general, all earlier research has been open to a variety of criticisms, and the most widely accepted studies have yielded conflicting results.

Applicants should feel free to propose any approach which they feel is appropriate. Projects may employ microeconomic or macroeconomic data, may estimate long run or short run incidence, and may deal with the entire tax or just the employers' share. Every application, however, *must defend the appropriateness of the approach to be employed and must specify how that approach is likely to result in estimates superior to those of earlier studies.*

2. *Potential users.* Potential users of the research include policy makers at Federal, State and local levels of government, State judicial authorities and lawyers involved in marital dissolution, employers, unions, financial institutions, investors, and providers of health insurance, pensions and other fringe benefits. Because many of those who will be interested in this research lack advanced technical training, it is important that the results of projects be presented in a fashion accessible to such an audience. Nevertheless, researchers should not be discouraged from employing methods of whatever degree of sophistication is appropriate to the questions they are addressing.

3. *Types of projects excluded.* In consideration of the intent of this announcement, applications concentrating primarily on the concerns of a local service delivery organization will not be considered for funding.

4. *Content and organization of the application.* The application must begin with a cover sheet followed by the required application forms and an abstract (of not more than two pages) of the application. Failure to include the abstract may result in delays in processing the application. The cover sheet should clearly specify which of the high priority areas described above the application addresses, and each application should be limited to a single policy area. Applicants may, however, apply in more than one area, using separate applications. Each application should carefully describe the issues to be examined, the methodology proposed for testing the hypotheses, data sources to be used, and anticipated products of the research, as well as relating the expected products to the policy issues. Resumes of staff should be included as should a full budget for the proposed project.

5. *Data.* Applicants are encouraged to consider any data sets appropriate to their area of inquiry. In addition, applicants should be aware of two potentially relevant data sets which will become available during the period of the grant: the *May 1983 Supplement to the Current Population Survey* and the *1983 Survey of Consumer Finances.*

Information on these two data sets will be distributed in the application packets.

B. Applicable Regulations

1. "Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), which was published in the Code of Federal Regulations on October 1, 1980.

2. "Administration of Grants" (45 CFR Part 74), which was published in the Code of Federal Regulations on June 9, 1981.

C. Effective Date and Duration

1. The grant awarded pursuant to this announcement is expected to be made on or about June 30, 1984.

2. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. The closing dates for applications are specified in Sections F and G below.

3. Applicants may present a work plan and budget covering either a one-year or a fifteen-month period.

D. Statement of Funds Availability

1. A total of \$700,000 has been set aside for grants to be awarded as a result of this announcement. Applications may be for projects costing over \$20,000. It is expected that most awards will be for projects of less than \$100,000, but some awards may be in excess of this amount.

2. Nothing in this application should be construed as committing the Assistant Secretary to dividing available funds among all qualified applicants or to make any award.

E. Applications Processing

1. Applications will be initially screened for relevance to the needs defined in section A (as well as additional areas of interest persuasively shown to be relevant by the grantee). If judged relevant, the application will then be reviewed by a government review panel, possibly augmented by outside experts. Three (3) copies of each application are required. Applicants are encouraged to send an additional seven (7) copies of their application to ease processing, but applicants will not be penalized if these extra copies are not included.

2. Applications will be judged as to eligibility, quality, and relevance, according to the criteria set forth in item 5.

3. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applications should take care to ensure

that all criteria are fully addressed in the application.

4. Applications should be as brief and concise as is consistent with the information requirements of the reviewers. Applications should be limited to 25 double-spaced typed pages, exclusive of forms, abstract, resumes, and the proposed budget; they should neither be unduly elaborate nor contain voluminous supporting documentation.

5. *Criteria for evaluation.* Evaluation of applications will employ the following criteria. The relative weights are shown in parentheses.

a. The potential usefulness of the objectives and anticipated results of the proposed project for providing individuals and organizations concerned with the issues discussed in Section A above with improved bases for making decisions about these issues. (25 points.)

b. The potential usefulness of the proposed project for the advancement of scientific knowledge. (25 points.)

c. The clarity of statement of objectives, methods, and anticipated results. (5 points.)

d. The appropriateness and soundness of methodology, including research design, statistical techniques, modeling strategies, choice of data, and other procedures. (25 points.)

e. The qualifications and experience of personnel. (20 points.)

F. Applications Sent by Mail

Applications may be sent by either the U.S. Postal Service or a commercial carrier. Applications sent by U.S. Postal Service will be considered to be received on time by the Grants Officer if the application was sent by first class, registered or certified mail not later than May 29, 1984, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service.

Applications sent by a commercial carrier will be considered to be received on time by the Grants Officer if sent not later than May 29, 1984 as evidenced by a receipt from the commercial carrier.

G. Hand-Delivered Applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this announcement. Hand-delivered applications will be accepted daily between 9:00 a.m. and 4:30 p.m., Washington, D.C., time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after close-of-business on May 29, 1984.

H. Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of the application, the Assistant Secretary will either (a) approve the application whole or in part; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review. Awards will not necessarily be made in all of the high priority areas identified in section A.

2. *Notification of disposition.* The Assistant Secretary will notify the applicants of the disposition of their application. A signed notification of grant award will be issued to the contact person listed in block 4 of the application to notify the applicant of the approved application.

I. Application Instructions and Forms

Copies of applications should be submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, S.W., Room 457F, Hubert H. Humphrey Building, Washington, D.C. 20201, Phone (202) 245-1794. Questions concerning the preceding information should be submitted to the Grants Officer at the same address. Neither questions nor requests for applications should be submitted after May 9, 1984.

J. Federal Domestic Assistance Catalog

This announcement is not listed in the Federal Domestic Assistance Catalog.

Dated: April 6, 1984.

Robert J. Rubin,

Assistant Secretary for Planning and Evaluation.

Project Description and Justification— Focused Grants Project

March 17, 1984.

Proposing Office: Income Security Policy Project Officers: Robert Schmitt and Nil Briskman

What will be learned from the project?

The project is intended to obtain information, in a specified set of topics, that is of direct policy relevance and that can be obtained with a limited expenditure of funds and research time. The topics in which projects are being sought are:

(1) *Women and Pensions:* How do pensions affect the well-being of women, through the job selections of women and the decisions on joint-and-survivor options by married men? What would be the effects on women of various possible changes in government policy in this area, e.g. shortening mandatory vesting requirements,

lowering the minimum age for mandatory pension coverage, or requiring indexation of the wage histories of employees who leave an employer well in advance of retirement?

(2) *Firm decisions on fringe benefits:* Would introduction of a tax cap on health insurance (that is, a ceiling on the amount of health insurance employers can provide without it being taxed as income to employees) lead employers to shift their fringe benefit packages toward other benefits, particularly tax-free benefits such as pensions?

(3) *Savings for old age:* How adequate are the savings of the elderly, and what is the effect of social security on private saving? To what extent do families save as a precaution against disasters, such as nursing-home admission?

(4) *Retirement benefits in divorce settlements:* Are social security (or pension) benefits—or expectations of benefits—taken into account implicitly in alimony judgments and property settlements? What would be the effects if changes in the law made it possible for judges to allocate earnings records? How would this procedure compare to an automatic process administered at the national level?

(5) *Who pays the payroll tax?* To what extent is the true burden of the payroll tax borne by employees, and to what extent is it borne in reduced profits or higher prices? What would be the effect of removing the cap on the employer share of the tax?

(6) *Individual Retirement Accounts:* Who participates in IRAs and Keoghs? How much do they save in this manner? What would happen if we further liberalized the limits on these accounts?

Why is the information needed?

This research is needed for intelligent consideration of a variety of policy proposals. Among the potential policies to which this project is relevant are:

- Changes in the regulations of private pensions to better ensure adequate income for elderly women:
- A tax cap on employer provided health insurance;
- Encouragement of private alternatives to social security (so as to avoid potential adverse effects on saving, and thus on capital formation);
- Earnings sharing at the time of divorce;
- Changes in the amount or structure of payroll taxes used to finance social security;
- Increasing limits on IRAs.

How will the information be obtained?

Grants will fund a number of small research projects. We anticipate one award in each area, but the grant

announcement will be written to permit the Assistant Secretary to make multiple awards or no awards in each area, depending on the quality of the applications.

How much will it cost, when will it start, and when will it be completed?

ISP anticipates having approximately \$700,000 available for this project. Individual projects will be in the \$75,000-\$150,000 range. We expect to award grants late in June; the projects should run for approximately one year.

Why should ASPE, as distinct from an OPDIV/agency, undertake this study?

The areas of research covered by this project have implications for a broad spectrum of potential policies, some of which are competing, and many of which could be performed by various government agencies. As such, the research is outside the scope of any particular agency.

[FR Doc. 84-0718 Filed 4-10-84; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

Consumer Participation; Notice of Open Meetings

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: Atlanta District Office, chaired by John H. Turner, District Director. The topics to be discussed are Ethylene Dibromide (EDB) and Irradiated Foods.

DATE: Monday, April 16, 1984, 10 a.m. to 12 m.

ADDRESS: Extension Service Auditorium, Guilford County Extension Service, 3309 Burlington Rd., Greensboro, NC 27405.

FOR FURTHER INFORMATION CONTACT: Carolyn Hommel, Consumer Affairs Officer, Food and Drug Administration, 1182 West Peachtree Street NW., Atlanta, GA 30309, 404-881-7355.

St. Louis Station, chaired by Ronald M. Johnson, Chief. The topics to be discussed are Drug Use and the Elderly and Irradiated Foods.

DATE: Thursday, April 26, 1984, 1 p.m. to 3 p.m.

ADDRESS: 808 North Collins St., Laclede's Landing, St. Louis, MO 63102.

FOR FURTHER INFORMATION CONTACT: Mary-Margaret Richardson, Consumer Affairs Officer, Food and Drug Administration, 808 North Collins St.,

Laclede's Landing, St. Louis, MO 63102, 314-425-5021.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: April 4, 1984.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 84-9543 Filed 4-10-84; 8:45 am]

BILLING CODE 4160-01-M

Medical Radiation Advisory Committee; Change in Meeting Location

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a change of location for the meeting of the Medical Radiation Advisory Committee scheduled for April 30, and May 1, 1984. The meeting, announced in the Federal Register of March 14, 1984 (49 FR 9620), will be held at 12720 Twinbrook Parkway, Rm. 418, Rockville, MD.

FOR FURTHER INFORMATION CONTACT: Robert J. Morton, Center for Devices and Radiological Health (formerly National Center for Devices and Radiological Health) (HFZ-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4600.

Dated: April 5, 1984.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 84-9644 Filed 4-10-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83D-0304]

Oral Hypoglycemic Drug Products; Availability of Guideline Labeling

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of guideline labeling for oral hypoglycemic drug products of the sulfonylurea class. This guideline labeling, along with a required warning statement which is published elsewhere in this issue of the Federal Register, represents final agency action on

labeling for oral hypoglycemic drug products.

DATE: Guideline labeling available April 11, 1984.

ADDRESS: Written comments and requests for single copies of the guideline labeling to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert D. Bradley, National Center for Drugs and Biologics (HFN-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-8490.

Office Responsible for Maintaining Guideline: Division of Metabolism and Endocrine Drug Products (HFN-130), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3490.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 7, 1975 (40 FR 28587), FDA proposed labeling requirements for oral hypoglycemic drug products. The proposed requirements were based primarily on a long-term study by the University Group Diabetes Program (UGDP). UGDP discovered an unexpected increase in cardiovascular mortality in a group receiving tolbutamide, an oral hypoglycemic drug product. From the time the agency first announced its intention to require labeling changes reflecting these findings (HEW News, May 22, 1970), UGDP has been the subject of protracted debate and controversy. Elsewhere in this issue of the Federal Register the agency is publishing its conclusions on the UGDP controversy. In reaching these conclusions, the agency has responded to the many scientific, legal, and policy issues raised in the course of the UGDP debate. The agency has concluded that the association between the use of tolbutamide and increased cardiovascular mortality is sufficiently strong to require a revised warning statement, but also has concluded that this association is not sufficient to require a comparative safety statement, as proposed, that oral hypoglycemic drugs should be used only in patients who cannot or will not take insulin. Only a warning statement, to appear in boldface type at the beginning of the "Warnings" section of labeling, is codified by the final rule that appears elsewhere in this issue of the Federal Register. Under the terms of the rule, revised labeling containing this warning statement must be included with affected products initially introduced or initially delivered for introduction into

interstate commerce 180 days after publication of the final rule.

In the July 7, 1975 proposal, the agency sets forth the entire text of the professional labeling in the proposed regulation. FDA's subsequent experience has been, however that processes associated with codification of full labeling in the Code of Federal Regulations are inefficient. While the full public participation that occurs in rulemaking is desirable in the formulation of drug labeling FDA has found it to be outweighed by the delay that results from the use of notice and comment rulemaking in providing new drug information to the health care professionals who prescribe and dispense prescription drug products. Similarly, the advantages in compliance that are obtained from prescribing labeling text in regulations can be outweighed by the difficulty attendant to changing labeling requirements as a result of new information. For these reasons, the agency has adopted the use of guidelines as the most useful method of making available appropriate drug labeling. Guidelines provide for some public participation in their development, yet permit modification without the delays attendant to the modification of regulations. Accordingly, except for the prescribed warning statement, the remainder of the labeling for oral hypoglycemic drugs of the sulfonylurea class is being adopted as an agency guideline under 21 CFR 12.90(b).

Because the full text of the labeling for oral hypoglycemic drugs was the subject of a notice of proposed rulemaking, full public participation has taken place in its development. While most of the labeling is now being issued as a guideline, the agency views the need to warn physicians and patients of the hazards associated by UGDP with oral hypoglycemic drug use as sufficiently important to implement the warning statement on increased risk of cardiovascular mortality as a final regulation. The combined use of the regulation and the guideline labeling for oral hypoglycemic drug products of the sulfonylurea class will result in specific compliance with respect to the warning provision, and will still retain optimal flexibility to implement changes in other parts of the labeling.

This notice is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements, but are acceptable to the agency. A person who follows this guideline is assured that his or her conduct is acceptable to the agency. The

agency advises that this guideline complies with the prescription drug labeling regulations in §§ 201.56, 201.57, and 201.100(d)(3) (21 CFR 201.56, 201.57, and 201.100(d)(3)) and can be relied upon by any person to meet these requirements. A person may choose to use alternative labeling statements that are not provided for in the guideline. If a person chooses to depart from the guideline, he or she may discuss the matter further with the agency to prevent expenditure of money and effort for labeling that the agency may later determine to be unacceptable.

In the Federal Register of May 16, 1980 (45 FR 32550), FDA established, in § 201.59 (21 CFR 201.59), November 1, 1983, as the effective date that labeling for blood glucose regulators, which would also include oral hypoglycemic drugs, were to comply with the provisions of §§ 201.56, 201.57, and 201.100(d)(3). This date has been revised for oral hypoglycemic drug products of the sulfonylurea coincide with the effective date for the required warning statement published elsewhere in this issue of the Federal Register, i.e., 180 days after the date of publication.

This notice, therefore, announces the availability of guideline labeling for oral hypoglycemic drugs of the sulfonylurea class to assist manufacturers in meeting regulatory and statutory requirements for the content and format of prescription drugs (§§ 201.56, 201.57, and 201.100(d)(3)). Because the guideline labeling contemplates that certain items of information will be supplied by drug manufacturers, prior approval will be required before manufacturers may put revised labeling into effect. To accommodate the need for manufacturers to obtain prior approval and subsequently implement labeling revisions by the October 9, 1984, effective date, the agency advises that applications should be submitted to it for review by July 10, 1984. This period should be sufficient for manufacturers to prepare and submit applications, as the guideline labeling provides a basis for much of the required information. The agency cannot assure that applications submitted after July 10, 1984, will be approved in time to permit manufacturers to implement required labeling changes for oral hypoglycemic drug products of the sulfonylurea class initially introduced or initially delivered for introduction into interstate commerce after October 9, 1984. To the extent that individual manufacturers may be unable to meet this effective date, they may request a waiver under the provisions of 21 CFR 5.31 and 10.30. Absent extraordinary circumstances,

however, FDA will not consider a waiver of the effective date for the warning requirement. The agency has amended § 201.59 to reflect these revised dates by separating sulfonylurea drug products from other blood glucose regulators. Recalls of outstanding stocks manufactured and distributed legally before the effective date will not be required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the reporting and recordkeeping requirements in sections 201.56, 201.57, 201.59, and 201.100(d), which set forth the content and format of labeling for human prescription drugs and the effective dates when revised labeling must meet these requirements, have been submitted for approval to the Office of Management and Budget (OMB). The guideline labeling being made available by the agency has been developed in accordance with the provisions of these sections. The requirements under § 201.59, as amended in the final rule published elsewhere in this issue of the Federal Register, for revised labeling for oral hypoglycemic drug products will not be effective until FDA obtains OMB approval of the recordkeeping and reporting requirements of §§ 201.56, 201.57, 201.59, and 201.100(d). FDA will publish a notice concerning OMB review of these requirements prior to July 10, 1984.

The OMB review of these requirements does not apply to the effective date of the new warning information required by § 510.517, published elsewhere in this issue of the Federal Register, because that warning statement is not a collection of information as defined by OMB (5 CFR 1320.7(c)).

Interested persons may submit written comments on the guideline to the Dockets Management Branch (address above). Comments will be considered in determining whether future amendments to or revisions of the guideline are warranted. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidelines and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Requests for single copies of the guideline may be submitted to the Dockets Management Branch and should be identified with the docket

number found in brackets in the heading of this document.

Dated: March 2, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84-0841 Filed 4-9-84; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, the Physicians' Practice Costs and Incomes Survey, HHS/HCFA/ORD No. 09-70-0032. We have provided background information about the proposed system in the "SUPPLEMENTARY INFORMATION" section below. HCFA invites public comments by May 11, 1984, with respect to routine uses of the system.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on April 14, 1984. The new system of records, including routine uses, will become effective June 4, 1984, unless HCFA receives comments which would convince us to make a contrary determination.

ADDRESS: The public should address comments to Glenda Beller, Privacy Officer, Office of Management and Budget, Health Care Financing Administration, Room G-C-3, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Robert Berry, Office of Research and Demonstrations, Health Care Financing Administration, Room 2B-15 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Telephone 301-594-6711.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records collecting data under the authority of Section 224 of the Social Security Amendments of 1972, Pub. L. 92-603. Section 224(a) amended § 1842(b)(3) of the Act (42 U.S.C. 1395u(b)(3)). Among other things relating to the determination of reasonable charges, that amendment to § 1842(b)(3)

provides that, in the case of physician services, the prevailing charge level for any fiscal year beginning after June 30, 1973, may not exceed (in the aggregate) the level determined for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. Section 1842(b)(3) is implemented in the Medicare regulations for determining prevailing charges at 42 CFR 405.504.

The purpose of this survey is to collect data to update the weights of the cost shares of the Medicare Economic Index (MEI), and collect data on physician reimbursement issues relating to Medicare and Medicaid. Current cost share weights are based on 1978 data, which is quite dated. In addition to updating the cost shares, the survey will collect data on physician fees, participation in Medicare and Medicaid, practice patterns and financial arrangements. The system of records will include data collected through a sample survey of physicians in the United States who have patient care as their major professional activity. The primary contractor for this survey is NORC, Chicago, Illinois. It has, in turn, subcontracted to Health Economics Research, Inc., Chestnut Hill, Massachusetts.

In order to conduct the survey, the contractor must have individually identified records. Since we are proposing to establish this system of records in accordance with the requirements and principles of the Privacy Act, we do not anticipate that it will have an unfavorable effect on the privacy or other personal rights of individuals.

The Privacy Act permits us to disclose information without the consent of the individual for "routine uses"—that is, disclosures for purposes that are compatible with the purpose for which we collected the information. The proposed routine uses in the new system meet the compatibility criteria since the information is collected for administering the Medicare program for which we are responsible. We anticipate that disclosures under the routine uses will not result in any clearly unwarranted adverse effects on personal privacy.

Dated: April 4, 1984.

Carolyn K. Davis,
Administrator.

09-70-0032

SYSTEM NAME:

Physicians' Practice Costs and Incomes Survey, HHS/HCEA/ORD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

NORC, 8030 South Ellis, Chicago, Illinois, 60637.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individuals covered by this system will be a sample of 5,000 physicians who provide patient care at least 20 hours per week in either an office or hospital based setting, and who live in the 50 United States and the District of Columbia.

CATEGORIES OF RECORDS IN THE SYSTEM:

Practice costs (e.g., rent or depreciation for space and equipment, employee salaries and fringe benefits, malpractice insurance, transportation), gross and net income, deferred income and fringe benefits, practice financial arrangements, participation in Medicare and Medicaid, fees, workloads, locus of care, physician-hospital relationships.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1842(b)(3) of the Social Security Act as amended by Section 224(a) Pub. L. 92-603 (42 U.S.C. 1395u(b)(3)).

PURPOSE(S):

To provide data required to update the cost share weights of the Medicare Economic Index, and to evaluate the effect of federal policy for physician reimbursement on their participation in Medicare and Medicaid and on the locus of care, to monitor the effects of competition on physicians' practices' financial arrangements, to begin to monitor the effects of prospective payment on physicians' delivery of health care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosure may be made:

1. To the contractor, NORC, who will use this information during the data collection phase of the survey.
2. To a congressional office, from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
3. In the event of litigation, where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; (c) any Department employee in his or her

individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic tape.

RETRIEVABILITY:

Information will be retrieved by a unique identifier assigned by the contractor to each physician record.

SAFEGUARDS:

The contractor, NORC, will maintain all records in secure storage areas accessible only to authorized employees and will notify all employees having access to records of criminal sanctions for unauthorized disclosure of information on individuals. For computerized records, the contractor will initiate automated data processing (ADP) system security procedures required by DHHS ADP Systems Manual, Part 6, ADP Systems Security (e.g., use of passwords), and the National Bureau of Standards Federal Information Processing Standards. HCFA and other contractors using the data will not be able to identify the individual physicians who participated in the survey.

RETENTION AND DISPOSAL:

hardcopy lists of names and case identification numbers will be retained in secure storage areas. Individual records delivered to HCFA on the final data tape will contain no individual names, and the case identifiers will be different from those used by the contractor. The disposal technique of degaussing will be used to strip magnetic tape of all identifying names and numbers in Sept. 1988. Hardcopy lists of names and identifying numbers will be destroyed at this time.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Research and Demonstrations, Health Care Financing Administration, Area 2-B-15, Oak Meadows Building, 8325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address

indicated above and specify name and address.

RECORD ACCESS PROCEDURE:

Same as notification procedure. Requestors should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager named above, and reasonably identify the record and specify the information to be contested. State the reason for contesting it (e.g., why it is inaccurate, irrelevant, incomplete, or not current).

RECORD SOURCE CATEGORIES:

Sources of information contained in this record system include data collected from physicians by means of a telephone interview survey. Data will also be provided by the American Medical Association from its master file of physicians in the U.S.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-9689 Filed 4-10-84; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

National Cancer Institute; Biometry and Epidemiology Contract Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, May 8-11, 1984, Building 31, C Wing, Conference Room 8, Bethesda, Maryland 20205. This meeting will be open to the public on May 8, from 9:00 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 8, from approximately 9:30 a.m. through adjournment on May 11, for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31,

Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Wilna A. Woods, Executive Secretary Biometry and Epidemiology Contract Review Committee, National Cancer Institute, Westwood Building, Room 807, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7153) will furnish substantive program information.

Dated: March 29, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-9681 Filed 4-10-84; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Meeting of the National Advisory General Medical Sciences Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on May 22, and 23, 1984, Building 31, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public on May 22, 1984, from 8:30 a.m. to 11:00 a.m. for opening remarks; report of the Director NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 22, from approximately 11:15 a.m. to 6:00 p.m., and on May 23, 1984, from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20205, Telephone: 301-496-7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, Room 926, Bethesda, Maryland 20205, Telephone:

301-496-7891 will provide substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13-821, Physiology and Biomedical Engineering; 13-859, Pharmacology-Toxicology Research; 13-862, Genetics Research; 13-863, Cellular and Molecular Basis of Disease Research; and 13-880, Minority Access to Research Careers (MARC))

Dated: March 29, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-9682 Filed 4-10-84; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for April through June 1984, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Study section	April-June 1984 meetings	Time	Location
Behavioral and Neurosciences—1: Dr. Bertie Woolf, Rm. A23, Tel. 301-496-7286.	May 31 to June 1.	8:30	Holiday Inn, Georgetown, DC.
Behavioral and Neurosciences—2: Dr. Bertie Woolf, Rm. A23, Tel. 301-496-7286.	May 25	8:30	Do.
Behavioral and Neurosciences—3: Dr. Bertie Woolf, Rm. A23, Tel. 301-496-7286.	do	(¹)	Do.
Behavioral and Neurosciences—5: Dr. Bertie Woolf, Rm. A23, Tel. 301-496-7286.	May 11	9:00	Holiday Inn, Bethesda, MD.
Biomedical Sciences—1: Ms. Joan D. Fredericks, Rm. A10, Tel. 301-496-1067.	May 21 to 22.	8:30	Holiday Inn, Georgetown, DC.
Biomedical Sciences—2: Ms. Joan D. Fredericks, Rm. A10, Tel. 301-496-1067.	May 30 to 31.	8:30	Do.
Biomedical Sciences—3: Dr. Charles Baker, Rm. A10, Tel. 301-496-7150.	May 8 to 10.	8:30	Do.
Biomedical Sciences—4: Dr. Charles Baker, Rm. A10, Tel. 301-496-7150.	May 15 to 16.	8:30	Linden Hill Hotel, Bethesda, MD.
Biomedical Sciences—5: Dr. Nicholas Mazarella, Rm. A10, Tel. 301-496-7600.	Apr. 30 to May 1.	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences—1: Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510.	May 17 to 18.	8:30	Do.
Clinical Sciences—2: Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477.	May 14 to 15.	8:30	Wellington Hotel, Washington, DC.
Clinical Sciences—3: Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510.	May 3 to 4	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences—4: Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477.	do	8:30	Wellington Hotel, Washington, DC.

¹ 2:00 p.m.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393-13.396, 13.837-13.844, 13.846-13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: March 29, 1984.

Betty J. Beveridge,
Committee Management Officer, NIH.

[FR Doc. 84-9680 Filed 4-10-84; 8:45 am]

BILLING CODE 4140-01-M

Meeting of the Pulmonary Diseases Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on May 19, 1984 at the Fontainebleau Hotel, Room Everglades A, 4441 Collins Avenue, Miami Beach, Florida 33140.

The entire meeting, from 8:30 a.m. to 5:00 p.m. will be open to the public. The Committee will discuss implementation of the Division of Lung Diseases fiscal 1985/86 initiatives. Attendance by the public will be limited to the space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A-21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Dr. Suzanne S. Hurd, Ph.D., Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Dated: April 3, 1984.

Betty J. Beveridge,
Committee Management Officer.

[FR Doc. 84-9658 Filed 4-10-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-84-1372]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New

Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6374. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 202 Application

Submission Requirements

Office: Housing

Form No.: None

Frequency of submission: Annually

Affected public: Non-Profit Institutions

Estimated burden hours: 106,730

Status: Extension

Contact: Robert W. Wilden, HUD, (202)

426-8730, Robert Neal, OMB, (202)

395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 30, 1984.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 84-9679 Filed 4-10-84; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. N-84-1371]

Renewal of the Advisory Committee on Contract Document Reform

AGENCY: Office of the Under Secretary, HUD.

ACTION: Renewal of an Advisory Committee.

SUMMARY: HUD is renewing the Committee on Contract Document Reform pursuant to the provisions of the Federal Advisory Committee Act. The Committee was chartered on April 6, 1983. Under the provisions of the renewal charter, the Committee will continue in existence for twelve months, unless the charter is sooner amended or revoked.

DATE: The charter of the Committee on Contract Document Reform shall become effective on the date Secretary of Housing and Urban Development files it with the Senate Committee on Banking, Housing and Urban Affairs, and the Housing Committee on Banking, Finance and Urban Affairs, which are the standing committees of Congress having legislative jurisdiction over the Department.

FOR FURTHER INFORMATION CONTACT:

Diane Savoy, Committee Management Office, Room 5170, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone: (202) 755-5123

Joseph Lupica, Special Assistant to the Secretary, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone: (202) 755-5713

(These are not toll-free telephone numbers).

SUPPLEMENTARY INFORMATION: On April 6, 1983, HUD established an Advisory Committee on Contract Document Reform under the provision of the Federal Advisory Committee Act (Pub. L. 92-463). The Committee's charter expires on April 6, 1984. Because the Committee's work is not complete, HUD is renewing the Committee's charter for a twelve-month period.

The Committee will continue to review all HUD's construction contract documents. At the end of its review, the Committee will make recommendations to the Secretary on the extent to which

the documents must be revised to insure consistency among documents from program to program, as well as to correct technical inadequacies and flaws within each document.

All meetings of the Committee will be open to the public. The time, place, and agenda for each Committee meeting will be published in the Federal Register at least 15 days prior to the meeting.

Dated: April 5, 1984.

Philip Abrams,
Under Secretary.

Department of Housing and Urban Development

Committee on Contract Document Reform

Section 1. Purpose. This renews the Charter for the Committee on Contract Document Reform as required under the provisions of the Federal Advisory Committee Act (FACA) of 1972, as amended, Pub. L. 92-463, 5 U.S.C. App. The Committee was established on April 6, 1983.

Section 2. Authority. The Committee is established by the Secretary pursuant to Section 7 of the Department of Housing and Urban Development Act (Pub. L. 89-174, 79 Stat. 667; 42 U.S.C. 3531) in furtherance of Section 2 of the Housing Act of 1949 (Pub. L. 171, 81st Congress; 63 Stat. 413; 42 U.S.C. 1441), and implements the determination of the Secretary of Housing and Urban Development to establish an Advisory Committee pursuant to Section 9(a)(2) of FACA.

Section 3. Objectives, Scope of Activities, and Duties. The Committee shall review all the Department of Housing and Urban Development's contract documents pertaining directly or indirectly to construction. This review will include, but not be limited to, such documents as construction contracts, building loan agreements, and performance and payment bonds. The Committee shall make recommendations to the Secretary on the extent to which the Department's construction documents must be revised to insure consistency among documents and from program to program, as well as to correct technical flaws and inadequacies within each document.

Section 4. Membership. The Committee shall be composed of no more than nine members. All members shall be persons with considerable experience in construction law with particular emphasis in the field of government procurement. The members will be selected on the basis of personal experience and expertise and not as representatives of any groups affected by the operation of HUD programs since

the work of the Committee is purely technical and will not involve policy considerations.

Section 5. Appointments. The Committee members shall be appointed by the Secretary to serve a term of 12 months from the effective date of the charter. Members shall serve at the pleasure of the Secretary.

Section 6. Chairperson. The Chairperson shall be appointed by the Secretary. The Chairperson is responsible for:

a. Establishing the informal organization of the Committee and appointing such subcommittees as deemed necessary;

b. Developing, with the advice and consent of the Committee, procedures for its effective and efficient operation;

c. Ensuring that procedures for public participation in Committee meetings are established in accordance with the FACA;

d. Taking such other actions as may be required to facilitate the discharge of Committee duties.

Section 7. Committee Organization. The organization and agenda of the Committee will be established at the first full meeting of the Committee on Contract Document Reform. Once established, the organization of the Committee may be modified when deemed appropriate by the Chairperson. Any subcommittees appointed by the Chairperson shall be subordinate and advisory to the full Committee. Such subcommittees may meet at such times and places as the subcommittee Chairperson has approved for the performance of Committee business. The results of all subcommittee meetings shall be reported to the full Committee for its review.

Section 8. Meetings. The Committee will meet at least once a month for its duration unless the Committee chairperson chooses to call special meetings. The Committee and any of its subcommittees shall convene under the following conditions:

a. A notice of each Committee or subcommittee meeting shall be published in the Federal Register at least 15 days in advance of the meeting. Shorter notice is permissible in cases of emergency, but the reason for such emergency must be reported in the notice.

b. Detailed minutes of each meeting of the Committee shall be kept, and their accuracy certified to by the Committee Chairperson and submitted to the Secretary of HUD and filed with the Departmental Committee Management Officer. The minutes shall include:

(1) The time and place of the meeting;

(2) A list of Committee members and staff and agency employees present at the meeting;

(3) A complete summary of matters discussed and the conclusions reached;

(4) Copies of all reports received, issued or approved by the Committee;

(5) A description of the extent to which the meeting was open to the public;

(6) A description of public participation, including a list of members of the public who attended the meeting.

c. An employee designated by the Secretary, or his designee, will attend every meeting of the Advisory Committee. The designated employee, or his designee, must call, or approve of, each meeting and is authorized to adjourn any Committee meeting whenever he determines that adjournment is in the public interest.

Section 9. *Support Services.* The Assistant Secretary for Housing—Federal Housing Commissioner shall, to the extent permitted by law and subject to the availability of funds, provide the Committee with such administrative services, funds, facilities, staff and other support as may be necessary for the effective performance of its functions.

Section 10. *Estimated Support and Cost.* The Department estimates that the operating cost of the Committee will not exceed \$15,000. This does not include staff support costs which are estimated to be one-quarter staff year.

Section 11. *Travel and Compensation.* Members of the Committee will serve without compensation, but are entitled to be paid for travel and subsistence in the performance of duties on an actual expense basis, as authorized by 5 U.S.C. 5703(b).

Section 12. *Reports.* The Committee shall submit a written report to the Secretary, describing its membership, functions and actions prior to its termination. The Committee shall submit other written reports from time to time to the Secretary containing its recommendations and findings.

Section 13. *Expiration.* The Committee renewed under this Charter shall terminate 12 months after the charter is filed unless sooner extended.

Dated: April 2, 1984.

Approved:

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 84-0880 Filed 4-10-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[U-54134]

Utah; Order Providing for Opening of Public Lands

1. Under the authority delegated by Bureau of Land Management Manual section 1203—Delegation of Authority, 43 CFR Part 2300, effective January 23, 1982 (48 FR 85), it is ordered as follows:

2. Effective the date of this publication, the lands described below will be open to proposals under section 212 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2759, 44 Stat. 741, as amended 43 U.S.C. 869-4.

Parcel B

An irregular parcel of land in the S½ of section 18 and the N½ of section 19, T. 7 S., R. 3 E., SLM, being more particularly described as follows:

Beginning at a point which lies S. 01°20' W. 4,527.5 feet along the section line from the northwest corner of said section 18; thence N. 69°30' E. 2,824.6 feet; thence along the Utah Lake Meander Line the following courses: S. 75°00' E. 462 feet thence S. 46°30' E. 528 feet; thence S. 02°30' E. 231 feet; thence S. 85°00' W. 283.8 feet; thence N. 86°30' W. 719.4 feet; thence S. 77°00' W. 1,214.4 feet; thence S. 20°00' W. 396 feet; thence S. 03°00' E. 100.8 feet, more or less, to a point on the easterly right-of-way of Highway I-15; thence N. 31°52' W. 1,069.4 feet, more or less, along the easterly line of said Highway I-15 to point of beginning containing 45.8 acres, more or less.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: March 30, 1984.

W. R. Papworth,

Deputy State Director, Operations.

[FR Doc. 84-0873 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-DQ-M

[W-86129, W-86130, W-86131, W-86133-W-86136 inclusive, W-86138, W-86139]

Availability of Public Land for Competitive Sale in Brown County, Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Competitive Sale of Land Parcels in Brown County, Nebraska.

SUMMARY: The parcels of public land described below have been previously

offered for sale by the Bureau of Land Management (BLM) pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2759, 43 U.S.C. 1713). Initially, the parcels were offered for sale by the modified competitive and direct sale procedures with the provision that if unsold, they will be offered for sale by the competitive procedure. All parties had an opportunity to comment on the sale proposed in the Notices of Realty Action. The lands described below are now available for competitive public sale, and the BLM solicits and will accept competitive bids on these unsold lands. The BLM must receive fair market (appraised) value for the land sold and will reject any bid for less than such value. The BLM may accept or reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law.

PARCELS

Serial No.	Legal description	Parcel No.	Acres	Appraised value
W-86129	T. 25 N., R. 21 N., 6th P.M. Section 1, S½SE¼ Section 3, S½SW¼	3	80	80
Total			160	\$20,000
W-86130	T. 25 N., R. 21 W., 6th P.M. Section 9, W½NW¼	4	80	10,000
W-86131	T. 27 N., R. 21 W., 6th P.M. Section 22, NW¼SE¼	5	40	5,000
W-86133	T. 25 N., R. 22 W., 6th P.M. Section 1, SW¼SW¼	7	40	5,000
W-86134	T. 25 N., R. 22 W., 6th P.M. Section 30, NE¼SW¼	8	40	4,400
W-86135	T. 26 N., R. 22 W., 6th P.M. Section 5, NW¼SE¼	9	40	5,000
W-86136	T. 25 N., R. 23 W., 6th P.M. Section 21, E½SE¼ Section 22, S½SW¼	10	160	17,500
W-86138	T. 31 N., R. 24 W., 6th P.M. Section 4, SW¼SE¼	12	40	5,000
W-86139	T. 31 N., R. 24 W., 6th P.M. Section 14, SW¼SW¼	13	40	5,000

Sale Date(s)

All bids received will be opened the fourth (4) Wednesday of each month beginning April 25, 1984. To be considered, bids must be received by 10:00 A.M. on the day of the bid opening.

Sale Terms and Conditions

1. A reservation that the sale of the parcel will be subject to all valid existing rights.
2. All minerals will be reserved to the United States in accordance with section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).
3. For Parcel 12 (W-86138), Parcel 13 (W-86139) only, the patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).
4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.
5. Upon disqualification of the apparent high bidder, the next high bid will be honored.
6. If two (2) or more envelopes containing valid bids of the sale amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing shall be held by the Authorized Officer immediately following the opening of the sealed bids. At the close of the sale date, the high bidder will be notified in writing 30 days whether or not the Bureau can accept the bid.
7. Each bid shall be accompanied by certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior—BLM.
8. The sealed bid envelope must be marked in the front lower left-hand corner with the words, "Public Land Sale, W—, Parcel No. —, Brown County, Nebraska, 1984 Land Sales."
9. All sealed bids to be valid must be an amount not less than one-fifth (1/5) of the total bid.
10. Failure to pay at least full price within 30 days of the sale shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.
11. If the grazing lessee(s) do not purchase Parcels 5, 7, 10, or 13, the following will be a condition of sale of each parcel:

Parcel No. 5

Sumner E. and Teckla Copple are the grazing lessees and owners (100 percent interest) of the following authorized range improvements: Permit No. 448, 1/4 mile or 4-wire fence on the west border of Parcel No. 5. If any person other than Sumner E. and Teckla Copple is the successful bidder on the land being offered for sale, that person will be required to reimburse Sumner E. and

Teckla Copple for the value of improvements and furnish proof thereof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area before conveyance may be made. If the bidder and grazing lessees are unable to agree, the Authorized Officer shall determine the value.

Parcel No. 7

Ralph and Joanne Gracey are the grazing lessee(s) and owners (100 percent interest) of the following authorized range improvements: Permit No. 434, 1/4 mile of 3-wire fence and one (1) windmill on Parcel No. 7. If any person other than Ralph and Joanne Gracey is the successful bidder on the land being offered for sale, that person will be required to reimburse Ralph and Joanne Gracey for the value of the improvements and furnish proof thereof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area before conveyance may be made. If the bidder and grazing lessees are unable to agree, the Authorized Officer shall determine the value.

Parcel No. 10

Ronald Krutsinger is the grazing lessee and owner (100 percent interest) of the following range improvements for the portion of Parcel No. 10 in Section 22: Permit No. 4915, 1/4 mile of fence which lie on the west and a portion of the south border of Parcel No. 10. If any person other than Ronald Krutsinger is the successful bidder on the land being offered for sale, that person will be required to reimburse Ronald Krutsinger for the value of the improvements and furnish proof thereof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area before conveyance may be made. If the bidder and grazing lessee are unable to agree, the Authorized Officer shall determine the value.

Parcel No. 13

Loise M. Randall is the grazing lessee and owner (100 percent interest) of the following authorized range improvements: Permit No. 1831, 1/4 mile of fence on the north, east and west sides of Parcel No. 13. If any person other than Lois M. Randall is the successful bidder on the land being offered for sale, that person will be required to reimburse Lois M. Randall for the value of the improvements and furnish proof thereof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area before conveyance may be made. If the bidder and grazing lessee are unable to agree, the Authorized Officer shall determine the value.

12. If the grazing lessee(s) does/do not purchase nor waive his/her grazing privileges on Parcels 3, 4, 5, 7, 8, 9, 10, 13, the patent shall include the following statement:

"The successful bidder agrees that he takes the real estate subject to existing grazing use of (grazing lessee(s)), holder of grazing authorization number—. The rights of (grazing lessee(s)) to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization number—shall cease on (month/day/year). The successful bidder is entitled to receive annual grazing fees from the (purchaser) in an amount not to exceed that which would be authorized under federal grazing fee published annually in the Federal Register.

Address: Send All Bids or For Information Contact: Bureau of Land Management, Newcastle Resource Area, P.O. Box 219, Newcastle, Wyoming 82701, Office Phone (307) 748-4453.

Dated: April 3, 1984.

James W. Monroe,
Casper District Manager.

[FR Doc. 84-9878 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86107, W-86108, W-86109]

Availability of Public Land for Competitive Sale in Holt County, Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Competitive Sale of Land Parcels in Holt County, Nebraska.

SUMMARY: The parcels of public land described below have been previously offered for sale by the Bureau of Land Management (BLM) pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713). Initially, the parcels were offered for sale by the modified competitive and direct sale procedures with the provision that if unsold, they will be reoffered for sale by the competitive procedure. All parties has an opportunity to comment on the sale proposed in the Notices of Realty Action. The lands described below are now available for competitive public sale, and the BLM solicits and will accept competitive bids on these unsold lands. The BLM must receive fair market (appraised) value for the land sold and will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the Authorized Officer,

consummation of the sale would not be fully consistent with FLPMA or other applicable law.

PARCELS

Serial No.	Legal description	Parcel No.	Acreage	Appraised value
W-86107	T. 28 N., R. 14 W., 6th P.M., Section 24, SE¼SE¼	1	40.0	\$5,000.00
W-86108	T. 33 N., R. 14 W., 6th P.M., Section 22, NE¼NE¼	2	40.0	5,000.00
W-86109	T. 28 N., R. 16 W., 6th P.M., Section 19, lot 3	3	22.5	2,800.00

Sale Date(s)

All bids received will be opened the fourth (4) Wednesday of each month, beginning April 25, 1984. To be considered, bids must be received by 10:00 A.M. on the day of the bid opening.

Sale Terms and Conditions

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

4. Upon disqualification of the apparent high bidder, the next high bid will be honored.

5. If two (2) or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing shall be held by the Authorized Officer immediately following the opening of the sealed bids. At the close of the sale date, the high bidder will be notified in writing within 30 days whether or not the Bureau can accept the bid.

6. "Each bid shall be accompanied by certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior, BLM."

7. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, W- , Parcel No. —, Holt County, Nebraska, 1984 Land Sales."

8. All sealed bids to be valid must be an amount not less than one-fifth (1/5) of the total bid.

9. Failure to pay at least full price within 30 days of the sale shall disqualify the apparent high bidder and

the deposit shall be forfeited and disposed of as other receipts of sale.

ADDRESS: Send All Bids or For Information Contact:

Bureau of Land Management, Newcastle Resource Area, P.O. Box 219, Newcastle, WY 82701, Office Phone: (307) 746-4453.

Dated: April 3, 1984.

James W. Monroe,
Casper District Manager.

[FR Doc. 84-0676 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86111, W-86112, W-86113]

Availability of Public Land for Competitive Sale in Keya Paha County, Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Competitive Sale of Land Parcels in Keya Paha County, Nebraska.

SUMMARY: The parcels of public land described below have been previously offered for sale by the Bureau of Land Management (BLM) pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713). Initially, the parcels were offered for sale by the modified competitive and direct sale procedures with the provision that if unsold, they will be reoffered for sale by the competitive procedure. All parties had an opportunity to comment on the sale proposed in the Notices of Realty Action. The lands described below are now available for competitive public sale, and the BLM solicits and will accept competitive bids on these unsold lands. The BLM must receive fair market (appraised) value for the land sold and will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law.

PARCELS

Serial No.	Legal description	Parcel No.	Acreage	Appraised value
W-86111	T. 32 N., R. 18 W., 6th P.M., Section 17, lot 5	1	6.7	\$335.00
W-86112	T. 35 N., R. 20 W., 6th P.M., Section 17, lots 1-4 inclusive, Section 18, lots 1-4 inclusive	2	21.33	2,000.00
W-86113	T. 35 N., R. 23 W., 6th P.M., Section 15, lots 1-4 inclusive	3	12.36	1,240.00

Sale Date(s)

All bids received will be opened the fourth (4) Wednesday of each month, beginning April 25, 1984. To be considered, bids must be received by 10:00 A.M. on the day of the bid opening.

Sale Terms and Conditions

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. For Parcel 3 (W-86113) only, the patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. Upon disqualification of the apparent high bidder, the next high bid will be honored.

6. If two (2) or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing shall be held by the Authorized Officer immediately following the opening of the sealed bids. At the close of the sale date, the high bidder will be notified in writing within 30 days whether or not the Bureau can accept the bid.

7. "Each bid shall be accompanied by certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior, BLM."

8. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, W- , Parcel No. —, Keya Paha County, Nebraska, 1984 Land Sales."

9. All sealed bids to be valid must be an amount not less than one-fifth (1/5) of the total bid.

10. Failure to pay at least full price within 30 days of the sale shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

ADDRESS: Send All Bids or For Information Contact:

Bureau of Land Management, Newcastle Resource Area, P.O. Box 219, Newcastle, WY 82701, Office Phone: (307) 746-4453.

Dated: April 3, 1984.

James W. Monroe,
Casper District Manager.

[FR Doc. 84-0677 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-22-M

[U-42926, 42928, 42930]

Utah; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 277,556.77 acre land withdrawal for the Colorado River Storage Project—Glen Canyon Unit continue for an additional 100 years, or until the project is no longer needed. The withdrawal will segregate the land from surface entry only. The lands are within the Glen Canyon Recreation Area, administered by the National Park Service, and are closed to mining location, but have been and would remain open to mineral leasing.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

FOR FURTHER INFORMATION CONTACT: Ken Latimer, Utah State Office (801) 524-4431.

The Bureau of Reclamation proposes that the existing land withdrawal made by Commissioner's Order of September 10, 1953, published June 22, 1954, be continued for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The lands involved are located in southern Utah from the boundary with Arizona Northerly to include all lands inundated by Lake Powell and a minimal buffer zone around the lake, as depicted on map—Glen Canyon Dam—Lake Powell 557-400-229. All lands in this proposed continuation of the Reclamation withdrawal are within the Glen Canyon National Recreation Area and contain 277,556.77 acres.

The purpose of the withdrawal is for the functions of constructing, operating, and maintaining Glen Canyon Dam and Lake Powell. This withdrawal segregates the land from operation of the public land laws only.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in

writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: March 30, 1984.

Orval L. Hadley,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-0674 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-DQ-M

[W-71388, W-71396, W-71397, W-71413, W-71415, W-71416]

Wyoming; Proposed Continuation of Withdrawal

April 2, 1984.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 6,526.78-acre withdrawal for the Guernsey Reservoir, North Platte Project, continue for an additional 50 years. The lands remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments and requests for a public meeting should be received by July 10, 1984.

ADDRESS: Comments and meeting requests should be sent to: Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, (307) 772-2089.

The Bureau of Reclamation proposes that parts of the following existing withdrawals made by the Secretarial Order of February 11, 1903, as modified by the Secretarial Orders of June 21, 1904, August 10, 15, 1908, and the Secretarial Orders of November 21, 1904, April 8, 1930, September 4, 1934, and January 10, 1941, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Sixth Principal Meridian, Wyoming

T. 27 N., R. 66 W.,

Sec. 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 8, lots 5, 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 7, lot 1 and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 9, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 10, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 15, NE $\frac{1}{4}$, W $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 18;
Sec. 17, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 18, lots 2, 3, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 19, N $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 20, N $\frac{1}{2}$ N $\frac{1}{2}$;
Sec. 21;
Sec. 22, W $\frac{1}{2}$ E $\frac{1}{2}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$.

T. 27 N., R. 67 W.,

Sec. 1, lots 1, 2, 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 2, lots 1, 2, 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 11, N $\frac{1}{2}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 12, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 13 NW $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 28 N., R. 67 W.,

Sec. 35, SE $\frac{1}{4}$.

The area described contains 6,526.78 acres in Platte County, Wyoming.

The purpose of the withdrawal is to protect the Guernsey Reservoir, North Platte Project. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Resources, in the Wyoming State Office.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the Chief, Branch of Land Resources, within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the Federal Register at least 30 days before the scheduled date of the meeting.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

Hillary A. Oden,

State Director, Wyoming.

[FR Doc. 84-0667 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-22-M

Bureau of Reclamation

Strawberry Valley Project, Utah; Intent To Negotiate a Rehabilitation and Betterment Contract

The Department of the Interior, through the Bureau of Reclamation (Bureau), intends to initiate negotiations with the Strawberry Water Users' Association, Payson, Utah, on a loan repayment contract for the rehabilitation and betterment of the Spanish Fork Diversion Structure and the Strawberry Power Canal of the Strawberry Valley Project.

The Strawberry Valley Project was authorized in 1905 by the Secretary of the Interior under the provisions of the Reclamation Act of 1902 and was essentially completed by 1918. The project was the first large-scale transmountain diversion from the Colorado River Basin to the Bonneville Basin and was constructed primarily to provide irrigation service to irrigable land centered around Spanish Fork in Utah County.

Advance funds of \$7,254,000 for a rehabilitation and betterment (R&B) loan are being sought under the authority of the Act of October 7, 1949 (63 Stat. 724), as amended and supplemented pursuant to Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof or supplementary thereto). The purpose of the loan is to provide funding for the rehabilitation of the Spanish Fork Diversion Structure and the Strawberry Power Canal. Both structures are badly deteriorated due to climatic conditions and chemical reactions within the concrete making structural failure highly probable in the near future. The Strawberry Water Users' Association will be responsible for the R&B program which will reduce the potential for a structural failure in

the system, improve operation and maintenance, and reduce seepage losses.

The terms and conditions of the proposed contract are ultimately dependent upon approval of the R&B report, the Secretary of the Interior's approval of the proposed contract, and a maximum 60-day Congressional review of the Secretary's determination of the water users' ability to repay the proposed loan.

All meetings scheduled by the Bureau with the association for the purpose of discussing terms and conditions for the proposed contract will be open to the general public as observers. Advance notice of meetings will be furnished only to those parties who have submitted a written request for notification. Requests should be addressed to the Projects Manager, Bureau of Reclamation, Attention: UPO-400, P.O. Box 1338, Provo, Utah. All written correspondence concerning the proposed contract will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract for a 30-day period after the completed contract draft is made available to the public. However, in the event that little or no public interest in the negotiations is generated in response to this notice and local news releases, the availability of the proposed form of contract for public review and comment may not be formally published through the Federal Register or other media.

For further information on the contact negotiations, contact Mr. LaVar Richman, Chief, Repayment Staff at the above address, or telephone (801) 374-1081.

Dated: April 4, 1984.

Robert A. Olson,

Acting Commissioner of Reclamation.

[FR Doc. 84-0632 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Marine Mammals; Receipt of Application for Permit; Tulsa Zoological Park

Notice is hereby given that an applicant has applied in due form for a permit to import polar bears as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant:

A. Name: Tulsa Zoological Park.
b. Address: 5701 E. 36th Street, N., Tulsa, OK 74115.

2. Type of permit: Import.

3. Name and number of animals: polar bear—*Ursus maritimus*—3.

4. Type of Activity: Public display.

5. Location of Activity: Import from Moscow Zoo, USSR, to Tulsa Zoological Park, OK.

6. Period of Activity: Import permit will be valid for 2 years.

The purpose of this application is to obtain a permit under the MMPA to import a pair of captive-born polar bears for public display and propagation.

Concurrent with the publication of this notice in the Federal Register the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned application PRT 2-11389. Written data or views, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WFO), P.O. Box 3654, Arlington, VA 22203, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements contained in this notice are summaries of those of the applicant and do not necessarily reflect to the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 601, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: April 5, 1984.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-0603 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-07-M

Minerals Management Service

Approval of Outer Continental Shelf Official Protraction Diagrams

Correction

In FR Doc. 84-6208 appearing on page 8687 in the issue of Thursday, March 8, 1984, make the following corrections to the table in the third column:

1. In lines nine through thirty-three, "NM" should read "NN".

2. In lines thirty-four through thirty-seven, "NM" should read "NO".

3. In the last line, "NM" should read "NS".

BILLING CODE 1505-01-M

Request for Supplemental Information Sand and Gravel Leasing Offshore Alaska; Correction

On Friday, March 30, 1984, at 49 FR 12761, a Request for Supplemental Information for sand and gravel leasing offshore Alaska was published in the Federal Register. A typographical error occurred in the section entitled "Instructions on Request for Supplemental Information." Sentence 3 of paragraph 1 should read " * * * following planning areas: Diapir Field, Norton, St. George, or North Aleutian Basins."

Dated: April 9, 1984.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 84-9901 Filed 4-10-84; 10:12 am]

BILLING CODE 4310-MR-M

Designation of Payee on Checks and Bank Drafts Submitted With Outer Continental Shelf Oil and Gas Bids; Clarification

AGENCY: Minerals Management Service, Interior.

ACTION: Clarification notice.

SUMMARY: The Minerals Management Service clarifies the way that checks or bank drafts can be made payable for Sales 83 and 81. For these sales, checks or bank drafts may be made payable either to the U.S. Department of the Interior—Minerals Management Service or to the Minerals Management Service.

DATE: This clarification is effective for Sales 83 and 81.

FOR FURTHER INFORMATION CONTACT: Sandra Seim, Minerals Management Service, Washington, D.C. (202) 343-5121.

SUPPLEMENTARY INFORMATION: The Notice of Sale for Sale 83 (Navarin Basin) appeared in the Federal Register at 49 FR 10058 on March 16, 1984, and the Notice for Sale 81 (Central Gulf of Mexico) appeared at 49 FR 11106 on March 23, 1984. Bidders are hereby advised that the one-fifth cash bonus referred to in paragraph 3 of the Notices may be submitted in cash or by cashier's check, bank draft, or certified check payable EITHER to the order of the U.S. Department of the Interior—Minerals Management Service OR to the order of the Minerals Management Service. This

clarification is made because the proposed Notices of Sale had indicated that payment was to be made to the Minerals Management Service, but the final Notices for both sales indicated that payment must be made to the order of the U.S. Department of the Interior—Minerals Management Service. Some companies had made commitments based on the language in the proposed Notices of Sale, and, therefore, for purposes of these two sales (Sales 83 and 81), either designation of payee will be acceptable.

Bidders are advised, however, that such checks and bank drafts submitted with bids in connection with all future sales (including Sales 84 and 87) must be made payable to the order of the U.S. Department of the Interior—Minerals Management Service.

William D. Bettenberg,

Director, Minerals Management Service.

April 19, 1984.

[FR Doc. 84-9902 Filed 4-10-84; 10:12 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf, Navarin Basin; Oil and Gas Lease Sale 83 (April 1984); Correction

On Friday, March 16, 1984, at 49 FR 10058, the Notice for the Navarin Basin Outer Continental Shelf Oil and Gas Sale 83 (April 1984) was published in the Federal Register. A typographical error occurred in the list of bidding units for Official Protraction Diagram NP 1-3 (approved November 2, 1983). All five blocks were erroneously listed as one bidding unit when they should have been separated into two bidding units. This list is part of paragraph 12(b) appearing at page 10060 of the Notice.

The Notice is corrected as follows:

Official Protraction Diagram NP 1-3 (approved November 2, 1983).

Blocks

913, 956, and 957

999 and 1000

All other terms and conditions in the Notice referenced above remain unchanged.

The Minerals Management Service has received questions regarding paragraph 4 of the Notice of Sale, Bidding Systems, which states that all bids submitted at this sale must provide for a cash bonus of \$150 or more per acre or fraction thereof; and that all leases awarded will provide for a yearly rental payment of \$3 per acre or fraction thereof. The official protraction diagrams which apply to this lease sale state the size of each block in hectares. Bidders are advised that the conversion factor from hectares to acres is 2.471.

Figures should be rounded upward to the nearest whole number. For example, for a full block: 2304 hectares $\times$ 2.471 acres per hectare equals 5693.184 acres, which rounded up becomes 5694 acres; the minimum bid, 5694 acres $\times$ \$150 per acre, would be \$854,100. For a partial block: 1991.01 hectares $\times$ 2.471 acres per hectare equals 4919.786 acres, which rounded up becomes 4920 acres; the minimum bid, 4920 acres $\times$ \$150 per acre would be \$738,000.

Dated: April 9, 1984.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 84-9903 Filed 4-10-84; 10:11 am]

BILLING CODE 4310-MR-M

National Park Service

San Antonio Missions Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the San Antonio Missions Advisory Commission will be held at 1:00 p.m., Tuesday, May 8, 1984, Room A-206, Federal Building, 727 E. Durango Boulevard, San Antonio, Texas.

The San Antonio Missions Advisory Commission was established pursuant to Pub. L. 95-629, Title II, November 10, 1978. The purpose of the commission is to advise the Secretary of the Interior or his designee on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park.

Matters to be discussed at this meeting include:

1. Park Operations Update.
2. "Friends of the Park" Update.
3. Archdiocesan Report.
4. City Report.

The meeting will be open to the public, however, facilities and space for accommodating members of the public will be limited and persons will be accommodated on a first-come, first-serve basis.

Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, San Antonio Missions National Historical Park.

Persons wishing further information regarding this meeting or who wish to submit a written statement may contact Jose A. Cisneros, Superintendent, 727 E. Durango Boulevard, Room A-612, San Antonio, Texas 78206, telephone 512 229-6009.

Minutes of the meeting will be available for public review approximately four weeks after the

meeting at the office of the San Antonio Missions National Historical Park.

Dated: April 3, 1984.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 84-9720 Filed 4-10-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-158]

Certain Plastic Light Duty Screw Anchors; Commission Determination Not To Review Initial Determination Terminating Investigation on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) (Order No. 18) to terminate this investigation.

Authority: 19 U.S.C. 1337, 47 FR 25143, June 10, 1982, and 48 FR 20226, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On February 24, 1984, and March 5, 1984, all parties participating in the above-referenced investigation moved (Motion Nos. 158-10 and 158-11) to terminate this investigation on the basis of a settlement agreement entered into by complainant Mechanical Plastics Corp., and respondents Hilti, Inc., and Hilti Aktiengesellschaft. The settlement agreement provides that in exchange for (1) the termination of this investigation and a related arbitration proceeding and (2) the right of respondents to manufacture, import, and sell the articles at issue, respondents will pay a set sum to complainant. Additionally, such payment by respondents shall be considered as full discharge, satisfaction, and release of all claims made by complainant in this investigation and the related arbitration proceeding. On March 6, 1984, the presiding officer issued an ID granting the motions upon finding that the settlement agreement quiets complainant's allegations of unfair acts by respondents and will have no adverse effects on the public interest.

Copies of the Commission's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, telephone 202-523-0074.

By order of the Commission.

Issued: April 6, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-0743 Filed 4-10-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-43 (Sub-110X)]

Illinois Central Gulf Railroad Co.; Abandonment in Montgomery County, IL; Exemption

Illinois Central Gulf Railroad Company (ICG) has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments*. The line to be abandoned is between milepost 218.0 near Farmersville and milepost 222.5 south of Waggoner in Montgomery County, IL, a distance of 4.5 miles.

ICG has certified (1) that no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line (or a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Illinois has been notified in writing at least 10 days prior to the filing of this notice. See *Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 380 I.C.C. 91 (1979).

The exemption will be effective on May 11, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by April 23, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by May 1, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission should be sent to ICG's representative: Howard D. Koontz, 233 North Michigan Avenue, 26th Floor, Chicago, IL 60601.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: April 3, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-0670 Filed 4-10-84; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20056:

1. Date: April 23-24, 1984.

Time: 8:30 a.m. to 5:30 p.m.

Room: 430.

Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after October 1, 1984.

2. Date: April 27, 1984.

Time: 8:30 a.m. to 5:30 p.m.

Room: 430.

Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after October 1, 1984.

3. Date: May 1, 1984.

Time: 8:30 a.m. to 6:00 p.m.

Room: 315.

Program: This meeting will review Summer Seminars for College Teachers applications in Foreign Language and Literatures, submitted to the division of Fellowships and Seminars, for projects beginning after May 1, 1985.

4. Date: May 1, 1984.

Time: 8:30 a.m. to 8:00 p.m.

Room: 316-2.

Program: This meeting will review Summer Seminars for College Teachers on Campuses of Historically Black Colleges and University applications submitted to the Division of Fellowships and Seminars, for seminars in 1985.

5. Date: May 1, 1984.

Time: 8:30 a.m. to 5:30 p.m.

Room: 430.

Program: This meeting will review applications submitted for the Humanities Project in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after October 1, 1984.

6. Date: May 2, 1984.

Time: 8:30 a.m. to 6:00 p.m.

Room: 315.

Program: This meeting will review Summer Seminars for College Teachers applications in Comparative Literature and Literary Theory, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

7. Date: May 3-4, 1984.

Time: 8:30 a.m. to 5:30 p.m.

Room: 430.

Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after October 1, 1984.

8. Date: May 3-4, 1984.

Time: 8:30 a.m. to 5:00 p.m.

Room: 415.

Program: This meeting will review applications submitted for the Humanities Projects in Media, Division of General Programs, for projects beginning after October 1, 1984.

9. Date: May 4, 1984.

Time: 8:30 a.m. to 6:00 p.m.

Room: 315.

Program: This meeting will review Faculty Graduate Study Program for Historically Black Colleges and Universities applications, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1985.

10. Date: May 4, 1984.

Time: 8:30 a.m. to 6:00 p.m.

Room: 316-2.

Program: This meeting will review Summer Seminars for College Teachers applications in Religion and Philosophy submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

11. Date: May 7-8, 1984.

Time: 8:30 a.m. to 5:30 p.m.

Room: 316.

Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after October 1, 1984.

12. Date: May 8, 1984.

Time: 8:30 a.m. to 6:00 p.m.

Room: 315.

Program: This meeting will review Summer Seminars for College Teachers applications in History I, submitted to the Division of Fellowships and Seminars for projects beginning after May 1, 1985.

13. Date: May 10-11, 1984.

Time: 8:30 a.m. to 5:00 p.m.

Room: 415.

Program: This meeting will review applications submitted for the Humanities Projects in Media, Division of General Programs, for projects beginning after October 1, 1984.

14. Date: April 23, 1984.

Time: 9:30 a.m. to 5:00 p.m.

Room: 319.

Program: This meeting will review applications submitted to the Intercultural Research Program, for projects beginning after July 1, 1984.

15. Date: May 7, 1984.

Time: 9:00 a.m. to 5:00 p.m.

Room: 430.

Program: This meeting will review applications submitted for Special Projects/Program Development Programs, Division of General Programs, for projects beginning after October 1, 1984.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9) (B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 786-0322.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 84-0683 Filed 4-10-84; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL MEDIATION BOARD

Appointment of Members to the Performance Review Board

ACTION: Notice of Appointment of Members to the Performance Review Board.

Notice is hereby given in accordance with 5 U.S.C. 4314 of the membership of the National Mediation Board's Performance Review Board for the position of Executive Secretary. The members are as follows:

Mrs. Helen M. Witt, Member, National Mediation Board, Washington, D.C.
Mr. Howard W. Solomon, Executive Director, Federal Service Impasses Panel, Washington, D.C.
Mr. John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, D.C.

EFFECTIVE DATE: April 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Rowland K. Quinn, Jr., Executive Secretary, 1425 K Street, NW., Washington, D.C. 20572, (202) 523-5950.

By direction of the National Mediation Board.

Rowland K. Quinn, Jr.,
Executive Secretary.

[FR Doc. 84-0671 Filed 4-10-84; 8:45 am]

BILLING CODE 7550-01-M

NATIONAL SCIENCE FOUNDATION

Presidential Young Investigator Awards

The National Science Foundation announces the competition for Presidential Young Investigator awards to be made in February, 1985.

These awards provide cooperative research support for the Nation's most outstanding and promising young¹ science and engineering faculty. With participation of the industrial sector, the awards are intended to improve the capability of universities to respond to the demand for highly qualified scientific and engineering personnel for academic and industrial research.

A maximum of 200 new Presidential Young Investigator Awards will be made in this competition. At least half of these awards will be made in engineering fields. Awards will be made for up to five years based on the annual determination of satisfactory performance and subject to the availability of funds.

In this competition there will be two types of nominations. Scientists and engineers who have received or are about to receive their doctoral degrees may be nominated for *faculty awards* by eligible institutions who have appointed or plan to appoint them to tenure track faculty positions. In addition, graduate students currently nearing their doctoral degrees, postdoctoral students, and other recent doctoral recipients without faculty affiliation may be nominated for *candidate awards* tenable at an appropriate eligible institution. Institutions offering tenure track

¹ "Young" in this context refers to academic age, as determined by time elapsed since receipt of the doctorate.

positions to recipients of *candidate awards* are expected to assume the same commitments as those associated with *faculty awards*.

Eligibility

U.S. institutions granting doctorates in at least one of the fields supported by the Foundation* are eligible to participate in this program. Such institutions may nominate outstanding faculty members who are early in their careers for *faculty awards*, and promising graduate students and recent doctoral recipients for *candidate awards*. Nominations may be submitted from any science or engineering department in an eligible institution.

In general, nominees must have received their doctorates after January 1, 1980. However, scientists and engineers who received their doctoral degrees in 1979 and have had at least one year of postdoctoral full-time industrial employment, or who received their doctoral degrees in 1978 and have had at least two years of postdoctoral full-time industrial employment are also eligible for nomination. U.S. citizens or individuals who are permanent residents as of the time of nomination are eligible to receive these awards.

Those nominated may conduct research in any branch of science and engineering normally supported by NSF. Particular emphasis in the selection of awards will be given to the mathematical, physical and biological sciences and engineering where there are substantial needs for faculty development.

Nominees for *faculty awards* must be holding or have been offered tenure track faculty positions at the nominating institutions at the time of nomination. *Candidate awards* are tenable only in tenure track positions at eligible institutions.

Support and Commitments

Minimum Presidential Young Investigator Awards will consist of \$25,000 of NSF funds per year. However, in accordance with the objective of developing improved links between the academic and industrial sectors, the Foundation will provide up to \$37,500 of additional funds per year on a dollar-for-dollar matching basis to contributions from industrial sources, (normally private, for-profit corporations), resulting in total possible annual support of up to \$100,000.

In addition, employing institutions are expected to make a significant commitment to support individuals who

receive these awards. The institution is responsible for arranging for the industrial support and guaranteeing full academic year salary for the awardee. None of the Presidential Young Investigator funds, whether provided by the Foundation or by industry, may be used to underwrite academic year salaries of awardees. However, up to 10 percent of the Foundation funds may be used to defray administrative expenses in lieu of indirect costs.

Application Procedures

Nominations for *faculty awards* originate from the departmental chairperson or analogous administrative officer of the sponsoring institution. Nominations for *candidate awards* originate from the departmental chairperson or an analogous institutional officer of the academic department where his or her doctoral studies are being or were carried out.

Each nomination submission must include:

- The Nomination Form provided. For a *faculty award* nomination, the Form includes a statement of the institutional commitment to guarantee the academic year salary and to seek matching industrial support;
- A complete, up-to-date *curriculum vitae*, including a one-page description of the nominee's research interests; a list of prior and current research grants, including sources and amounts; and a bibliography of the nominee's publications in refereed journals (a complete or partial list of other publications may be attached where it may materially strengthen the nomination);
- A statement, signed by the nominee, regarding plans for his or her academic career and signifying the intent to implement them if given a Presidential Young Investigator award; and
- Recommendations from three referees who are familiar with the research interests and capability of the nominee. *Referees for faculty award nominations may not be from the nominating institution.*

After an awardee has been selected, the employing institution will be asked to prepare a first-year budget in support of the awardee's research activities. The budget should show both the amount requested from the Foundation and the sources and amounts of industrial support. This information will be used in determining the amount of the award and other terms and conditions. Except as otherwise provided in this announcement, the terms and conditions, as well as the expected

institutional commitment, will be analogous to those stated in the publication, NSF 83-57, *Grants for Scientific and Engineering Research*. Similar submissions will be required annually for each successive year of support under this program.

Presidential Young Investigator awards will be expected to begin their awards by October 1 of the year of their awards.

Evaluation and Selection

Selection will be based on an evaluation of the nominee's ability and potential for contributing to the future vitality of the Nation's scientific and engineering effort as evidence by accomplishments, including contributions of original research and in the training of future scientists and engineers. Recommendations; suitability of the sponsoring institution for the implementation of the nominee's plans for his or her research and academic career (where applicable); probable impact of the award on the future career development of the nominee; quality of the research likely to emerge; and the potential impact of the award on the research field in question will be considered. In the case of *candidate nominations*, particular attention will be paid to evidence of the candidate's ability to conduct quality, independent research. The selection of individuals to receive Presidential Young Investigator Awards will be made by the National Science Foundation with the advice of panels of outstanding scientists and engineers.

Inquires

Inquires regarding the awards may be addressed to the Presidential Young Investigator Awards, National Science Foundation, Washington, D.C. 20550, or telephoned to (202) 357-7536.

Dated: April 6, 1984.

Michael M. Frodyma,
Program Director, Postdoctoral Fellowships.
[FR Doc. 84-9723 Filed 4-10-84; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems; Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a meeting on April 24, 1984, Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was

* See NSF 83-57, *Grants for Scientific and Engineering Research*

published Monday, March 26, 1984 (49 FR 11268).

In accordance with the procedures outlined in the *Federal Register* on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, April 24, 1984—8:30 a.m. Until the Conclusion of Business

The Subcommittee will continue the review of the General Electric SAFER ECCS EM Code.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of General Electric, the NRC Staff, their respective consultants, and other interested persons regarding this subject.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.s.t.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: April 6, 1984.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-9734 Filed 4-10-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Qualification Program for Safety-Related Equipment; Meeting

The ACRS Subcommittee on Qualification Program for Safety-Related Equipment will hold a meeting on April 24, 1984, Room 1046, 1717 H Street, NW., Washington, D.C. The Subcommittee will discuss qualification and maintenance of electrical terminal blocks. Notice of this meeting was published March 26, 1984 (49 FR 11268).

In accordance with the procedures outlined in the *Federal Register* on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, April 25, 1984—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Alan Wang (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.s.t.

Dated: April 6, 1984.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-9735 Filed 4-10-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Accidents; Meeting

The ACRS Subcommittee on Class-9 Accidents will hold a meeting on April 27, 1984, Room 1046, at 1717 H Street, NW., Washington, DC. Notice of this meeting was published March 26, 1984 (49 FR 11268).

In accordance with the procedures outlined in the *Federal Register* on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, April 27, 1984—8:30 a.m. Until the Conclusion of Business

The Subcommittee will discuss the final Severe Accident Policy Statement, alternatives to PBF Phase II test and QUEST.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Alan B. Wang (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.s.t.

Dated: April 6, 1984.
 Samuel J. Chilk,
 Secretary of the Commission.
 [FR Doc. 84-9738 Filed 4-10-84; 8:45 am]
 BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Exemption

I

Dairyland Power Cooperative (the licensee) is the holder of Provisional Operating License No. DRP-45 which authorizes operation of La Crosse Boiling Water Reactor (LACBWR) (the facility) located in Vernon County, Wisconsin. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

On November 19, 1980, the Commission published a revised section 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised Section 50.48 and Appendix R, which became effective on February 17, 1981, requires that nuclear power plants licensed to operate prior to January 1, 1979 must satisfy the requirements of Sections III.G, III.J, and III.O of Appendix R.

By letter dated September 28, 1982, the licensee requested four exemptions from the requirements of Section III.G of Appendix R. By letters dated February 23, 1983, November 14, 1983, and February 6, 1984, the licensee provided additional information, including commitments to implement additional fire protection modifications.

Section III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means: (a) Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier; (b) Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; (c) Enclosure of cable and equipment and associated non-safety circuits of one

redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

If these conditions are not met, Section III.G.3 requires an alternative shutdown capability independent of the fire area of concern. It also requires that a fixed suppression system be installed in the fire area of concern if it contains a large concentration of cables or other combustibles. These alternative requirements are not deemed to be equivalent; however, they provide equivalent protection for those configurations in which they are accepted.

III

Control Room

The licensee requested an exemption from the technical requirements of Section III.G.3 to the extent that it requires the installation of an area-wide fire suppression system in an area for which an alternate shutdown capability has been provided.

The boundary walls of the control room are constructed of concrete block with a plaster veneer. The floor and ceiling are concrete. Safety related equipment consists of the main control console which contains the majority of controls essential for normal station operation and for shutdown of the plant under all conditions. An alternate shutdown capability has been provided which is physically and electrically independent of the room. In situ combustible materials include cable insulation and variety of Class A combustibles, such as, operational manuals, logs, records and drawings. Existing fire protection consists of a smoke detection system, portable fire extinguishers and manual hose stations.

The licensee justifies the exemption on the following basis: (1) The fire load in the room is light; (2) Constant manning and the smoke detection system would provide assurance of early fire warning and rapid fire extinguishment by control room personnel; (3) The availability of an alternate shutdown capability which is independent of the room.

The technical requirements of Section III.G are not met in the control room due to the absence of a complete, area-wide, fixed fire suppression system. The staff has reviewed the alternate shutdown capability for the plant and has concluded that it meets the technical requirements of Sections III.G.3 and III.L. Therefore, in the unlikely event that a fire of significant magnitude occurred in the Control Room, safe

shutdown could still be achieved outside of the room.

The fire hazard in the control room is light; the room is continuously manned, is provided with adequate portable fire fighting equipment, and is adequately separated from areas containing the systems associated with the alternate shutdown capability. Therefore, if a fire occurred within the control room, damage would be limited to the immediate area of fire initiation by prompt detection and suppression with the existing manual suppression equipment.

Based upon the above evaluation, the staff concludes that the existing fire protection is adequate, and that the installation of a fixed fire suppression system will not significantly enhance the level of fire protection. Therefore, the licensee's request for exemption in the control room should be granted.

Electrical Penetration Room

The licensee requested an exemption from the technical requirements of Section III.G to the extent that it requires that redundant shutdown systems be separated by a one-hour fire rated barrier or by 20 feet free of intervening combustible materials.

The electrical penetration room is bounded by walls of reinforced concrete and concrete block with all openings protected to prevent the propagation of fire. The floor and ceiling are reinforced concrete. The safety related systems in the penetration room consist of essential bus switchgear 1A, a portion of the core spray line and all power, control and instrument cables for the reactor containment building. Combustible materials in the room consist primarily of cable insulation which represents a fire load of 12,000 BTUs/ft². The cables have been coated with a flame retardant to retard fire propagation. Existing fire protection includes a fire detection system which achieves area-wide coverage; a manual, open-head, water spray system; manual hose station; and portable fire extinguishers. The fire suppression system (water spray) is installed directly over the electrical penetrations and does not cover the entire fire area.

The Manual Depressurization System (MDS) valve cables, shutdown condenser controls and scram circuits in this fire area were not adequately protected from a potential fire. However, by letters dated February 23, 1983 and November 14, 1983, the licensee committed to provide one train of the shutdown condenser and the scram circuits and both trains of the MDS circuits with one-hour fire

protected cables in the electrical penetration area outside containment.

The technical requirements of Section III.G are not met in this room because the existing water spray fire suppression system is not automatic and does not cover the entire fire area. The combustible materials in this room are small in quantity and dispersed throughout the room. In addition, the flame retardant on the cables will reduce ease of ignition and flame propagation along the cable insulation. Consequently, the staff does not expect a fire to propagate rapidly or to produce significantly elevated room temperatures. The existing fire detection system should detect any potential fire in its early stages before significant damage occurred. It should be suppressed manually by the fire brigade in a short time (e.g., 15-30 minutes) using portable fire fighting equipment or the open-head water spray system.

While the fire is being extinguished, the shutdown related cables must be protected from a large exposure fire for at least one hour. The staff concludes that this protection may be accomplished by either of the following methods: (i) Wrap the cables with material which is rated as a "one-hour fire barrier" as defined by the acceptance criteria of ASTM Standard E-119, or (ii) request and obtain NRC approval of an alternative method of providing fire protection to cables which provides equivalent protection for the specific configuration described in the Electrical Penetration Room.

Therefore, after the licensee implements either of the above methods, the staff concludes that at least one train of the shutdown related systems identified above would remain operable. The provision of an automatic fire suppression system throughout this room would not significantly increase the level of fire safety.

Based upon the above evaluation, the staff concludes that the licensee's existing fire protection, with proposed modifications to provide one-hour fire protection by either of the methods described above will achieve an acceptable level of fire protection equivalent to that provided by Section III.G of Appendix R. Therefore, the licensee's request for exemption for the Electrical Penetration Room should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby

approves the exemption requests identified in Section III above.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated in Bethesda, Maryland this 4th day of April 1984.

For the Nuclear Regulatory Commission,
Robert A. Purple,
Deputy Director, Division of Licensing, Office
of Nuclear Reactor Regulation.

[FR Doc. 84-9737 Filed 4-10-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-316]

Indiana and Michigan Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards; Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. DPR-74, issued to Indiana and Michigan Electric Company (the licensee), for operation of the Donald C. Cook Nuclear Plant, Unit No. 2 located in Berrien County, Michigan.

The amendment, as a result of the Cycle 5 reload review, would revise the Technical Specifications on the acceptable relationship between the reactor coolant system total flowrate, radial pin peaking factor ($F_{N/DH}$) and power level as a result of emergency core cooling system/loss of coolant accident analysis with up to 5% of the steam generator tubes plugged. The amendment would also revise the Technical Specifications to require 50% of the ice condenser doors to be tested each 9 months (rather than 25% every 6 months), add containment penetration isolation valves on the Containment Service Air systems to Table 3.6-1 with appropriate surveillance isolation times, change the reactor coolant system T_{avg} for four loop operation to account for instrument uncertainties, to change the flow balance test requirements for the Safety Injection System to account for greater miniflow to provide more conservation for net position suction head for the pumps under accident condition, to add the group demand counters to show rod positions during calibration of the rod position indicator, and to make a number of editorial changes including some deletions of statements no longer applicable to plant operation. The

amendment, as a result of the Cycle 5 reload review, would also change the licensing condition 2.C.3(p) by deleting requirements for the seismic analysis of the fuel and revised calculations using the RODEX 2 code. These changes are in accordance with the licensee's applications for amendment dated March 1 and 15, 1984 and the Exxon Nuclear Company's letters, on behalf of the applicant, dated March 2, 13, and 16, 1984. The deletion of the licensing condition on fuel seismic design is further supported by the licensee's letter dated November 11, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility or a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing examples of amendments that are likely to not involve a significant hazards consideration. These were published in the *Federal Register* on April 6, 1983 (43 FR 14870). One of these examples, (iii), involves a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the Technical Specifications, that the analytical methods used to demonstrate conformance with the Technical Specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable. The proposed amendment to change the relationship of reactor coolant system flowrate, radial pin peaking factor, and power level to account for up to 5% of the steam generator tubes being plugged is directly related to this example. The new fuel being loaded is exactly like that loaded in cycle 4. The acceptable criteria for the Technical Specifications are unchanged and the analytical methods, used in

cycle 4 and with other pressurized water reactor reloads, is not significantly changed and have previously been found acceptable by the NRC.

Another example, (vi), involves a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. Some of the changes are related to this example. The first, a change to the frequency of the ice condenser door test to 50% each 9 months from 25% each 6 months, may initially extend the test period by three months but will eventually require more doors tested in a given period of time. In an 18 month refueling cycle, 100% of the doors would be tested by the new method versus 75% by the current requirements. The second change to add the Containment Service Air systems penetrating valves to the surveillance requirements table with isolation times is also like this example in that it would allow the system to be used in containment in modes above mode 5 but the qualification, testing, isolation times, isolation on Phase A signals are all within acceptable criteria for these systems.

The third change to increase the miniflow on the Safety Injection System is also like the example in that more miniflow will result in a small decrease of available flow to the core for small breaks but the analyses show that the ECCS/LOCA criteria are met and that the available net positive suction head is improved for all accident conditions. This means that the pumps are less likely to cavitate and for a small loss of flow to the core which is acceptable for ECCS/LOCA, the continued operability and safety is improved on the pump suction side.

Another example, (ii), involves a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The change to reduce the reactor coolant system T_{avg} from 578°F to 576.7°F (indicated) is a control not presently included in the Technical Specifications. The licensee has operated under administrative controls with the T_{avg} (indicated) which accounts for instrumentation inaccuracies and this change is reflected in the licensee's proposal to include the control in the Technical Specifications. The change to include the group demand counters in the Technical Specifications is also like this example. In previous operations and

specifically the calibrations of the rod position indicator (RPI) system, the licensee was unable to compare the group demand counters and RPI until the RPI's were calibrated. The NRC has previously found the group demand counters to be sufficiently reliable that they can be used during the short time the RPI is being calibrated. Thereafter, the two can be compared to assure they do not differ by the ± 12 steps in the Technical Specifications. Adding the group demand counters provides another control in the Technical Specifications.

Another example (iv), involves a relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. The change to the license condition 2.C.3(p) to delete requirements for the seismic analysis of the fuel and revised calculation using the RODEX 2 code is like this example in that license restrictions are proposed to be removed on the licensee's basis that analyses and calculations have been performed to methods and codes found acceptable and approved by the NRC. The seismic comparative analysis has been found acceptable by the staff in prior reviews and the RODEX 2 code was approved by the NRC for use on pressurized water reactors on September 2, 1983.

The last example (i), cited in the amendments involves a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. A number of these changes are proposed, among other things, to correct reference to Unit 1 and Unit 2 monitors on the leakage detection systems, delete footnotes that are no longer applicable, remove references to first year of operation which has long since passed, and define "free of frost accumulation on door operation" to actually be removal of ice, frost, and debris. None of these changes will alter or change current requirements or operation and are considered to be administrative in nature not to affect public health and safety.

As a result of the above consideration, the staff proposes to find that the proposed amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not

normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By May 11, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party of the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of

the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice to issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of

the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union operator at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Branch Chief, Operating Reactors Branch No. 1, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for the amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Bethesda, Maryland, this 3rd day of April 1984.

For the Nuclear Regulatory Commission,
Steven A. Varga,
Chief, Operating Reactors Branch No. 1,
Division of Licensing.

[FR Doc. 84-9738 Filed 4-10-84; 8:45 am]
BILLING CODE 7590-01-M

State Workshop on Shallow Land Burial and Alternative Disposal Concepts; Meeting

On May 2 and 3, 1984, the Nuclear Regulatory Commission (NRC) will sponsor a workshop with State officials to discuss shallow land burial and alternative disposal concepts for low-level radioactive waste. The meeting will be conducted at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland. The meeting is open to the

public for attendance and observation and will take place from 8:00 a.m. until 5:00 p.m. on Wednesday, May 2, and from 8:00 a.m. to 1:00 p.m. on Thursday, May 3, 1984. If you plan to attend or have questions regarding this workshop, please contact Dr. Stephen Salomon at (301) 492-9881.

Dated at Bethesda, Maryland this 5th day of April 1984.

For the Nuclear Regulatory Commission,
Jerome Saltzman,
Office of State Programs.

[FR Doc. 84-9738 Filed 4-10-84; 8:45 am]
BILLING CODE 7590-01-M

Utah; Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of agreement with State of Utah.

SUMMARY: Notice is hereby given that on March 29, 1984 Nunzio J. Palladino, Chairman of the Nuclear Regulatory Commission and Scott M. Matheson, Governor of the State of Utah, signed the Agreement set forth below for discontinuance by the Commission and assumption by the State of certain Commission regulatory authority. The Agreement is published in accordance with the requirements of Public Law 86-373 (section 274 of the Atomic Energy Act of 1954, as amended). The exemptions from the Commission's licensing authority have been published in the **Federal Register** and codified as Part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: John R. McGrath, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone (301) 492-9889 or Robert J. Doda, U.S. Nuclear Regulatory Commission, Region IV, Arlington, TX 76011. Phone (817) 860-8139.

SUPPLEMENTARY INFORMATION:

Agreement Between the United States Nuclear Regulatory Commission and the State of Utah for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for

discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in sections 11e.(1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, The Governor of the State of Utah is authorized under Utah Code Annotated 26-1-29 to enter into this Agreement with the Commission; and

Whereas, The Governor of the State of Utah certified on November 14, 1983, that the State of Utah (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on March 12, 1984, that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to this Agreement; and

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, Therefore, It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

- A. Byproduct materials as defined in section 11e.(1) of the Act;
- B. Source materials; and
- C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

- A. The construction and operation of any production or utilization facility;
- B. The export from or import into the

United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission;

E. The land disposal of source, byproduct and special nuclear material received from other persons; and

F. The extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material.

Article III

This Agreement may be amended, upon application by the State and approval by the Commission, to include the additional area(s) specified in Article II, paragraph E or F, whereby the State can exert regulatory control over the materials stated therein.

Article IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article V

This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article VI

The Commission will use its best efforts to cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other

informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any Agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission may also, pursuant to section 274j of the Act, temporarily suspend all or part of this Agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with section 274 of the Act.

Article IX

This Agreement shall become effective on April 1, 1984, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Salt Lake City, Utah, in triplicate, this 29th day of March, 1984.

For the United States Nuclear Regulatory Commission.

Nunzio J. Palladino,
Chairman.

For the State of Utah.

Scott M. Matheson,
Governor.

Dated at Bethesda, Maryland this 30th day of March, 1984.

For the United States Nuclear Regulatory Commission.

G. Wayne Kerr,
Director, Office of State Programs.

[FR Doc. 84-0740 Filed 4-10-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Issuance of Policy Letter No. 84-1, "Federally Funded Research and Development Centers (FFRDCs)"

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Final issuance of OFPP Policy Letter No. 84-1, "Federally Funded Research and Development Centers (FFRDCs)".

SUMMARY: This OFPP Policy Letter establishes guidelines for the establishment, use, periodic review, and termination of sponsorship of FFRDCs.

EFFECTIVE DATE: This Policy Letter is effective June 11, 1984.

FOR FURTHER INFORMATION CONTACT: Ms Judy Hendrickson, Office of Federal Procurement Policy, Office of Management and Budget, Washington, DC 20503, (202) 395-6811.

SUPPLEMENTARY INFORMATION: On August 12, 1983, the Office of Federal Procurement Policy published a draft of the subject policy letter, for a 60-day public and agency comment period. Twenty letters of comment were received from Federal agencies, business firms, industry and professional associations, and private citizens.

Following is a summary of the major comments, grouped by subject, and a response to each, including a brief description of changes, if any, made to the final Policy Letter as a result of the comments. Many minor changes were made to increase clarity, precision and readability.

A. Necessity of a Single Policy Applicable to All Types of FFRDCs

Comment: Several commentors questioned the necessity or desirability of a single policy applicable to all types of FFRDCs (Research Laboratories, R&D Laboratories, Study and Analysis Centers, and Systems Engineering/System Integration Centers). They maintained that the proposed policy failed to take into account the variations in FFRDC type, mission and management and went beyond the recommendations of the Commission on Government Procurement as adopted by the Executive Branch. Some commentors felt the Commission's intent could be met through existing program and procurement review mechanisms.

Response: Current procedures have not proved effective in meeting the objectives of the Commission's recommendations. The May 1983 White

House Science Council Report on Federal Laboratories, and comments from industry and professional organizations reaffirm that, absent specific guidelines and procedures, FFRDCs have migrated into areas which could have been performed as well or better by the private sector under more traditional relationships. Recognition of the variations in types, missions and organizations of FFRDCs is inherent in the definition of an FFRDC provided in the policy letter and the agency's determination of the content, within certain guidelines, of the Sponsoring Agreement. The Policy Letter is in line with the basic thrust of the Commission's recommendations. As an initial policy statement, it, in fact, does not go as far in some areas as the Study Group Report supporting the recommendations suggested.

B. Proper/Improper Activities of FFRDCs

Comment: One commentator felt the definition should also delineate the activities which should and should not be performed by FFRDCs.

Response: Delineation beyond that already contained in the Definition and Policy sections of the Policy Letter would be counter to the basic premise of retaining the option to use and establish FFRDCs when agency needs cannot effectively be met by available contractor or in-house resources. It is reasonable to expect these circumstances to change over time and be different for various missions. However, this area will be monitored to determine the necessity for further policy development.

C. Minimum Dollar Threshold

Comment: Several commentors felt that the threshold was too low while others saw no relevance at all to any funding threshold.

Response: The threshold is removed. A minimum dollar volume is not an essential element of the definition of an FFRDC.

D. Priority Ordering of Alternatives

Comment: Some commentors felt there should be a priority ordering of alternatives as was done in previous drafts of the FFRDC policy letter.

Response: A priority ordering of private sector, in-house, existing FFRDC and new FFRDC was dropped as being beyond the intent of the Commission's recommendation and contrary to the results of the 1979 review of research and development in conjunction with OMB Circular A-76 and the May 1983 White House Science Council Report on Federal Laboratories. A preference for

relying on existing sources (contractor or in-house) is stated. Priority ordering is not appropriate for R&D.

E. Content and Meaning of Sponsoring Agreements

Comment: Many commentors felt that the requirement for sponsoring agreements was too procedural and inappropriate for a policy document. Some commentors felt the prescribed content went too far while others felt equally strongly that the content was too limited.

Response: A clear delineation of purpose and scope is essential to any relationship and is compatible with the Commission's recommendation and the May 1983 White House Science Council Report. In addition, there are certain elements so basic and fundamental to the policy with respect to FFRDCs that they must be treated as mandatory content for any sponsoring agreement. Other elements, although basic and fundamental where they occur, will not be germane to every agreement. Greater agency discretion is appropriate in these latter areas. Current coverage is believed to be an appropriate balance between minimum requirements and necessary agency flexibility.

F. Meaning of Terms

Comment: Some commentors were concerned that the requirements for "advance agreement on cost items" was inconsistent with established cost principles under acquisition regulations. Others were concerned as to the best intended meaning of "scope of effort" and "change in scope".

Response: "Advance agreement on cost items" and "cost controls" are not intended to contravene existing regulations covering various cost principles. The intended meaning is the identification of cost elements that will require advance agreement prior to any change in them being implemented by the FFRDC. This is deemed necessary given the non-competitive environment in which the organizations operate especially when the arrangement is cost reimbursable. "Scope", in the paragraph entitled "Sponsoring Agreement", is intended in its broad context. It is not meant to require a full listing of the specific tasks to be undertaken but rather a description of the general subject areas along with purpose and mission so that individual tasks, if they require the unique relationship of an FFRDC, can readily be compared so as to ascertain if they fall within the sponsoring agreement (thus qualifying as tasks under the broader requirements type arrangement that is implicit in the

nature of a sponsoring agreement). Likewise, a "change in scope" as used in the paragraph dealing with "Changes to a Sponsoring Agreement" is intended to mean fundamental, material or cardinal changes. Expansions or changes in the role, mission or scope of effort of an FFRDC should only proceed after a thorough evaluation of other alternative sources, especially in the private sector, that might be able to effectively satisfy the needs of the agency without the special relationship of an FFRDC.

G. FFRDC Competition With the Private Sector

Comment: Most commentators felt that FFRDCs should generally be prohibited from competing with the private sector whether profit or non-profit, although some felt competition with non-profits might be an acceptable exception.

Response: Some of the concern in this area was due to an editorial oversight in the deletion of "for-profit" from the first line of paragraph 6.b.(5) of the draft and the failure to do so in the third line of paragraph 6.b.(5) of the draft. Examination of the benefits and problems associated with FFRDCs competing with any portion of the private sector leads us to believe that from a general policy standpoint the problems outweigh the benefits. It is felt that the circumstances are so limited where direct head-to-head competition with the private sector or any part of it would be desirable that they should be addressed on a case-by-case basis at the Federal policy level.

H. Work From Other Than Sponsors

Comment: Some commentators felt the requirement for sponsoring agreements to include policies and procedures with respect to work from non-sponsors would inherently cause conflict with the recommendation of the White House Science Council. Its report on Federal laboratories recommended that universities, industry and users of R&D results have greater access to Federal Laboratories.

Response: Neither we nor the Office of Science and Technology Policy feel there is a conflict. The FFRDC policy does not prescribe whether work from non-sponsors should or should not be permitted. That decision is left to the primary sponsoring agency as are the procedures for such work if it is permitted. However, FFRDCs do not have any special status with respect to non-competitive procurement procedures for either sponsors or non-sponsors outside the scope of their contractual agreements.

I. Use of FFRDCs by Sponsors and Non-Sponsors

Comment: Paragraphs 6.d. and e. of the draft Policy Letter were potentially conflicting as to the responsibilities of a primary sponsor and a non-sponsor with respect to non-sponsor work.

Response: The paragraphs have been revised (now 6.e. and 6.f.) to clarify that the primary sponsor has the controlling role in whether and how a non-sponsor can use that sponsor's FFRDC. It is also clarified that agencies (sponsors and non-sponsors) must comply with non-competitive procedures, including Pub. L. 98-72, for work not requiring the special FFRDC relationship and not falling within the scope of the sponsor's contractual agreement with the FFRDC. Contractual agreements with FFRDCs generally constitute a "requirements contract" under which work is authorized. The requirements of the periodic review do require consideration of alternative sources, including notice to the public, prior to the renewal of agreements with FFRDCs.

J. Miscellaneous Changes

Several other notable changes were made to 1) better integrate the term of the sponsoring agreement with the periodic review, 2) clarify the relationship of the FFRDC policy letter with OMB Circulars A-76 and A-109, 3) establish a schedule by which agreements with the existing FFRDCs will be brought into alignment with the FFRDC policy letter and a date by which a clear statement of purpose, mission, and general scope of effort must exist for each FFRDC, and 4) clarify the roles of OFPP and NSF with respect to FFRDCs.

For Copies of the Policy Letter and Further Information

Questions concerning the Policy Letter may be addressed to Ms. Judy Hendrickson, OMB/OFPP, 726 Jackson Place, NW, Room 9013, Washington, DC 20503, telephone (202) 395-6811. Questions concerning current sponsoring agency implementation of the policy letter should be directed to the appropriate agency contact identified below. Copies of the policy letter may be obtained by contacting Ms. Margaret Davis, OMB/OFPP, 726 Jackson Place NW., Room 9025, Washington DC 20503, telephone (202) 395-6166.

Sponsoring Agency Contact Points

Department of Defense

Mr. James H. Terrell, Jr., Special Assistant, Office of the Deputy Under Secretary for Research and

Advanced Technology, Room 3E114, The Pentagon, Washington, DC 20301 (202) 697-4789

Department of the Air Force

Major David Hammond, HQ USAF/RDX, Rm 4E317, The Pentagon, Washington, DC 20330 (202) 697-3040

Department of the Navy

Dr. Frank Shoup, Office of the CNO (OP91C), Room 4A530, The Pentagon, Washington, DC 20350 (202) 697-0833

Department of Energy

Mr. Stephen Mournighan, Director, Policy & Procedures Division, DOE, 1000 Independence Avenue SW., Washington, DC 20585 (202) 252-8185

National Aeronautics and Space Administration

Mr. Joe Garcia, Director, Program Operations Division (HS-1), National Aeronautics and Space Administration, Washington, DC 20546 (202) 453-2080

National Science Foundation

Mr. William Kirby, Chief, Policy Branch, Grants and Contracts Division, 1800 G Street NW., Washington, DC 20550 (202) 357-7880

Department of Health and Human Services

Mr. Fred Lewis, Director, Procurement Policy Division, 200 Independence Avenue SW., Washington, DC 20201 (202) 245-8791

Current FFRDC's and Sponsors

Research Laboratories

Frederick Cancer Research Center (HHS/NIH)

Cerro Tololo Inter-American Observatory (NSF)

Kitt Peak National Observatory (NSF)

National Astronomy and Ionosphere Center (NSF)

National Center for Atmospheric Research (NSF)

National Radio Astronomy Observatory (NSF)

Sacramento Peak Observatory (NSF)

Stanford Linear Accelerator Center (DOE)

Fermi National Accelerator Laboratory (DOE)

R&D Laboratories

Jet Propulsion Laboratory (NASA)

Ames Laboratory (DOE)

Argonne National Laboratory (DOE)

Bettis Atomic Power Laboratory (DOE)

Brookhaven National Laboratory (DOE)

E.O. Lawrence Berkeley Laboratory (DOE)

E.O. Lawrence Livermore National Laboratory (DOE)
 Hanford Engineering Development Laboratory (DOE)
 Idaho National Engineering Laboratory (DOE)
 Knolls Atomic Power Laboratory (DOE)
 Los Alamos National Laboratory (DOE)
 Oak Ridge Associated Universities (DOE)
 Oak Ridge National Laboratory (DOE)
 Pacific Northwest Laboratory (DOE)
 Princeton Plasma Physics Laboratory (DOE)
 Sandia National Laboratories (DOE)
 Savannah River Laboratory (DOE)
 Solar Energy Research Institute (DOE)
 Energy Technology Engineering Center (DOE)
 Lincoln Laboratory (DOD/AF)

Study and Analysis Centers

Center for Naval Analyses (DOD/NAVY)
 Institute for Defense Analyses (DOD/OSD)
 Project Air Force (DOD/AF)
 System Engineering/System Integration Centers
 Aerospace Corporation (DOD/AF)
 C³I Division of Mitre (DOD/AF).

Dated: April 4, 1984.

Donald E. Sowle,
 Administrator.

April 4, 1984.

OFPP Policy Letter 84-1

To the Heads of Executive Departments and Establishments
 Subject: Federally Funded Research and Development Centers

1. *Purpose.* This policy letter establishes Government-wide policies for the establishment, use, periodic review, and termination of the sponsorship of Federally Funded Research and Development Centers (FFRDCs).

2. *Supersession.* Memorandum from the Chairman to the Members of the Federal Council for Science and Technology, dated November 1, 1967, which set forth criteria for identification of FFRDCs and the requirement for a master Government listing of these centers, is superseded by this policy letter.

3. *Authority.* This policy letter is being issued pursuant to Sections 6(a), 6(d)(1) and 6(d)(8) of the Office of Federal Procurement Policy Act, as amended, 41 U.S.C. 405 (a), (d)(1) and (d)(8), which empower the Administrator of OFPP to prescribe Government-wide procurement policies and to complete action on the recommendations of the Commission on Government Procurement.

4. *Background.* The Departments of Energy, Defense, Health and Human Services, the National Aeronautics and Space Administration and the National Science Foundation currently sponsor a total of 34 FFRDCs. Non-sponsoring departments and agencies also utilize these FFRDCs. Federal funding of FFRDCs currently exceeds 4 billion dollars per year.

In 1967, a Government-wide policy for the identification and maintenance of a master listing of these FFRDCs was issued (reference paragraph 2—Supersession). In 1972, the Commission on Government Procurement recommended that the Federal Government keep open the option to organize and use FFRDCs to satisfy needs that cannot be satisfied effectively by other organizational resources. The Commission also recommended that agency heads periodically review the continuing need for existing FFRDCs and approve any proposal for new FFRDCs, with specific attention paid to the method of ultimate termination of sponsorship. This policy letter is based on the executive branch consideration of the Commission's recommendations.

5. Definitions:

a. *Primary Sponsor*—The executive agency which manages, administers or monitors overall use of the FFRDC.

b. *Sponsor* means an executive agency which funds and monitors specific work of a continuing nature with an FFRDC and is party to a sponsoring agreement. Multiple sponsorship of an FFRDC is possible so long as one agency agrees to act as the primary sponsor for administrative purposes.

c. *Federally Funded Research and Development Center (FFRDC).*

(1) FFRDCs do not have a prescribed organizational structure. They can range from the traditional contractor-owned/contractor-operated or Government-owned/contractor-operated (GOCO) organizational structures to various degrees of contractor/Government control and ownership. In general, however, all of the following criteria should be met before an activity is identified as an FFRDC:

(a) Performs, analyzes, integrates, supports (non-financial) and/or manages basic research, applied research, and/or development. (Activities primarily engaged in routine quality control and testing, routine service activities, production, mapping and surveys, and information dissemination, even though otherwise meeting the requirements of paragraph 5.c., are specifically excluded from FFRDC designation).

(b) Performance of the functions in 5.c.(1)(a) is either upon the direct request of the Government or under a broad charter from the Government, but in either case the results are directly monitored by the Government. However, the monitoring shall not be such as to create a personal services relationship, or to cause disruptions that are detrimental to the productivity and/or quality of the FFRDC's work.

(c) The majority of the activity's financial support (70% or more) is received from the Government with a single agency usually predominating in that financial support.

(d) In general, most or all of the facilities are owned by the Government or funded, under contract, by the Government.

(e) The activity is operated, managed and/or administered by either a university or consortium of universities, other non-profit organization or industrial firm as an autonomous organization or as an identifiable separate operating unit of a parent organization.

(f) A long term relationship evidenced by specific agreement exists or is expected to exist between the operator, manager, or administrator of the activity and its primary sponsor.

(2) In addition to the above criteria, the relationship between the activity and the Government should exhibit the following characteristics in order to qualify for FFRDC identification:

(a) The activity (organization and/or facilities) is brought into existence at the initiative of a Government agency or bureau to meet some special research or development need which, at the time, cannot be met as effectively by existing in-house or contractor resources.

(b) Work from other than a sponsoring agency is undertaken only to the extent permitted by the sponsoring agency and in accordance with the procedures of the sponsoring agency.

(c) The activity, whether the operator of its own or a Government-owned facility, has access, beyond that which is common to the normal contractual relationship, to Government and/or supplier data, employees, and facilities needed to discharge its responsibilities efficiently and effectively, whether the data is sensitive/proprietary or not.

(d) The primary sponsor undertakes the responsibility to assure a reasonable continuity in the level of support to the activity consistent with the agency's need for the activity and the terms of the sponsoring agreement.

(e) The activity is required to conduct its business in a responsible manner befitting its special relationship with the

Government, to operate in the public interest free from organizational conflict of interest, and to disclose its affairs (as an FFRDC) to the primary sponsor.

6. Policy.

a. *General.* Agencies will rely, to the extent practicable, on existing in-house and contractor sources for satisfying their special research or development needs consistent with established procedures under The Economic Act of 1932 (31 U.S.C. 1535), other statutory authority or procurement/assistance regulations. A thorough assessment of existing alternative sources for meeting these needs is especially important prior to establishing an FFRDC. This Policy Letter does not apply to the performance of commercial activities. Performance of commercial activities is governed by OMB Circular No. A-76.

b. *Establishment of an FFRDC.* In establishing an FFRDC, the sponsoring agency shall ensure that:

(1) Existing alternative sources for satisfying agency requirements cannot effectively meet the special research or development needs (6.a).

(2) At least three notices are placed over a 90-day period in the *Commerce Business Daily* and the *Federal Register* indicating the agency's intention to sponsor an FFRDC and the scope and nature of the effort to be performed by the FFRDC.

(3) There is sufficient Government expertise available to adequately and objectively evaluate the work to be performed by the FFRDC.

(4) Controls are established to ensure that the costs of the services being provided to the Government are reasonable.

(5) The responsibility for capitalization of the FFRDC has been defined in such a manner that ownership of assets may be readily and equitably determined upon termination of the FFRDC relationship with its sponsor(s).

(6) The purpose, mission and general scope of effort of the FFRDC is stated clearly enough to enable differentiation between work which should be performed by the FFRDC and that which should be performed by a non-FFRDC.

c. *Sponsoring Agreements.* When FFRDCs are established, long-term Government relationships are encouraged in order to provide the continuity that will attract high quality personnel to the FFRDC. This relationship should be of a type to encourage the FFRDC to maintain currency in its field(s) of expertise, maintain its objectivity and independence, preserve its familiarity with the needs of its sponsor(s), and provide a quick response capability. A

contract is the generally preferred instrument under which an FFRDC accomplishes effort for its sponsor(s). However, there may be instances where other legal instruments may be appropriate. A written agreement of sponsorship between the FFRDC and its sponsor or primary sponsor where more than one sponsor is involved may be used in addition to the contract or other legal instrument under which an FFRDC accomplishes effort. The specific content of a sponsoring agreement will vary depending on the situation. However, there are certain areas common to all situations that must be addressed. The following requirements must be addressed in either a contract, a sponsoring agreement or sponsoring agency's policies and procedures.

(1) Mandatory Requirements:

(a) A delineation of the purpose for which the FFRDC is being brought into being along with a description of its mission, general scope of effort envisioned to be performed, and the role the FFRDC is to have in accomplishment of the sponsoring agency's mission. This delineation must be consistent with the definition of an FFRDC set forth in paragraph 5.c(1)(a) and will be sufficiently descriptive so that work to be performed by the FFRDC can be determined to be within the purpose, mission and general scope of effort for which the FFRDC was established and differentiated from work which should be performed by a non-FFRDC. This delineation shall constitute the base against which changes in an existing FFRDC's purpose, mission or general scope of effort will be measured.

(b) Provisions for the orderly termination or nonrenewal of the agreement, disposal of assets and settlement of liabilities. The term of the sponsoring agreement will not exceed five years but can be renewed, as a result of periodic review, in not to exceed five year increments.

(c) A prohibition against the FFRDC competing with any non-FFRDC concern in response to a Federal agency formal Request For Proposal for other than the operation of an FFRDC. This prohibition is not required to be applied to any parent organization or other subsidiary of the parent organization in its non-FFRDC operations. However, sponsoring agencies may expand this prohibition as they determine necessary and appropriate.

(d) A delineation of whether or not the FFRDC may accept work from other than the sponsor(s). If non-sponsor work can be accepted, a delineation of the procedures to be followed along with any limitations as to the clients (other Federal agencies, State or local

governments, non-profit or profit organizations, etc.) from which work may be accepted. Limitations and procedures with respect to responding to requests for information as to an FFRDC's capabilities or qualifications are inherently a part of the "work for others" question and will be addressed by the sponsoring agency.

(2) Other Requirements As Appropriate:

(a) When cost type contracts are used, the sponsor(s) should identify any cost elements which will require advance agreement. Such items may be, but are not necessarily limited to, salary structure, depreciation, various indirect costs such as independent research and development or others as determined appropriate by the sponsor(s).

(b) Where fees are determined by the sponsor(s) to be appropriate, considerations which will affect their negotiation should be identified. Such considerations may be, but are not necessarily limited to, weighted guidelines, risks, use of Government furnished property and facilities, needs or others as determined appropriate by the sponsor(s).

(c) Other provisions as determined appropriate by the sponsor(s).

d. *Changing the Basic Scope of an Existing FFRDC's Sponsoring Agreement.* In changing the purpose, mission and general scope of effort to be performed or role of an existing FFRDC as set forth in its sponsoring agreement (see 6.c(1)(a)), the sponsoring agency shall make such changes consistent with its statutory authority and the requirements for establishing a new FFRDC as set forth in paragraph 6.b.

e. *Use of the FFRDC by the Sponsor or Primary Sponsor in the Case of Multiple Agency Sponsorship.* The sponsor, or primary sponsor in the case of multiple sponsorship, will ensure that all work it places with its FFRDC(s) is within the purpose, mission, and general scope of effort of the FFRDC (paragraph 6.c.) and in accordance with this Policy Letter. This includes work a sponsoring agency agrees to accept from a non-sponsoring Federal agency under the provisions of the Economy Act of 1932 (31 U.S.C. 1535) or other statutory authority. Sponsoring agencies must comply with applicable procurement or assistance statutes, policies and regulations for non-competitive actions before placing work which is outside the scope of the sponsor's contractual or sponsoring agreement with an FFRDC.

f. *Use of an Existing FFRDC by a Non-Sponsoring Federal Agency.* Non-Sponsoring Federal agencies may use an FFRDC only if the terms of the FFRDC's

sponsoring agreement or contract permit work from other than a sponsoring agency. Where use by a non-sponsor is permitted by the Sponsoring Agreement, the work must require the special relationship of an FFRDC as defined in paragraph 5.c. and either be treated as a direct procurement (action) or processed under the Economy Act of 1932 (31 U.S.C. 1535) or other statutory authority. Work processed under the Economy Act of 1932 (31 U.S.C. 1535) or other statutory authority must clearly fall within the purpose, mission and general scope of effort established by the sponsoring agency for the FFRDC (paragraph 6.c.). Processing under the Economy Act or other statutory authority is subject to agreement by the receiving agency. Non-sponsoring agencies must fully comply with procurement or assistance statutes, policies and regulations for non-competitive actions prior to placing work directly with a specific FFRDC. The FFRDC must comply with the procedures established by the sponsoring agency (paragraph 6.c.(1)(d)) before accepting work from a non-sponsoring Federal agency.

g. *Use of an Existing FFRDC by Other Than a Federal Agency.* Work from other than a Federal agency may be accepted only to the extent permitted by the sponsoring agency. The FFRDC must comply with the procedures established by the sponsoring agency (paragraph 6.c.(1)(d)) before accepting work from other than a Federal agency.

h. *Consulting Services.* Agencies sponsoring FFRDC work which constitutes consulting services, as defined by OMB Circular No. A-120, will comply with the provisions of that Circular.

i. *Production/Manufacturing.* FFRDCs will not be asked to perform quantity production and manufacturing work unless authorized by legislation. Such activities as breadboarding, modeling or other tasks inherent to R&D are permissible.

j. *Periodic Review.* Prior to renewal of a sponsoring agreement, agencies shall conduct a comprehensive review of their use and need for each FFRDC that they sponsor. Where multiple agency sponsorship exists this review will be a coordinated interagency effort. When the funding for an FFRDC is a specific line item within the sponsoring agency's budget, the comprehensive review may be done in conjunction with the budget process or the review may be done separately. The sponsoring agency(s) shall apprise other agencies who use the FFRDC of the scheduled review and afford them an opportunity to assume sponsorship in the event the current

sponsorship is determined no longer appropriate. Final approval to continue or terminate an agency's sponsorship arrangement with a given FFRDC as a result of this review shall rest with the head of that sponsoring agency. The results of this review will be formally documented. The periodic review should include:

(1) An examination of the agency's special technical needs and mission requirements to determine if and at what level they continue to exist.

(2) Consideration of alternative sources to meet the agency's needs. Such consideration will include compliance with the Notice and Publication requirements of Pub. L. 98-72 (15 U.S.C. 637(e)) prior to renewal of the contract or Sponsoring Agreement unless otherwise exempted.

(3) An assessment of the efficiency and effectiveness of the FFRDC in meeting the agency's needs.

(4) An assessment of the adequacy of the FFRDC management in assuring a cost-effective operation.

(5) A determination that the guidelines of section 6 are being satisfied.

k. *Termination or Nonrenewal of an FFRDC Relationship.* When a sponsor's need for the FFRDC no longer exists, the sponsorship may be transferred to one or more Government agencies, if appropriately justified. Otherwise it shall be phased out, the assets disposed of and all liabilities settled as provided by the terms and conditions of the sponsoring agreement.

7. Action Requirements.

a. Not later than September 30, 1984, each agency currently sponsoring an FFRDC will review the terms of its existing agreements with the FFRDCs for compliance with this policy letter. Where existing agreements do not comply with this policy letter the primary sponsor will develop a schedule to bring the agreements into compliance not later than the next contract renewal or five years from the effective date of this policy letter, whichever comes first.

b. Where the review required by 7.a. reveals that a clear statement of the purpose, mission and general scope of effort, as described in paragraph 6.b.(6) and 6.c.(1)(a), does not exist, the sponsoring agency shall ensure such a statement is developed not later than September 30, 1984.

c. The primary sponsor will notify the Office of Science and Technology Policy prior to designating any new organization as an FFRDC (paragraph 6.b.), changing the basic scope of effort of an existing FFRDC (paragraph 6.d.) or changing the status of an existing FFRDC (paragraph 6.k.).

d. The National Science Foundation will maintain a master Government list of FFRDCs based upon the definition of this Policy Letter.

e. FFRDCs will be identified by their primary sponsors who will provide information, including funding data, on the type of R&D being performed by the FFRDCs to the National Science Foundation upon their request for such information.

f. Each agency head is responsible for ensuring that the provisions of this policy are followed.

8. *Effective Date.* The Policy Letter is effective June 11, 1984.

9. *Implementation.* Aspects of this policy letter requiring implementation will be covered by the Department of Defense, the General Services Administration and the National Aeronautics and Space Administration in the Federal Acquisition Regulation not later than 180 days from the date of this policy letter. Implementation will be written so as to be compatible with the requirements, as of the date of this policy letter, of FAR 17.6 "Management and Operating Contracts" when the arrangement with an FFRDC constitutes a management and operating contract.

10. *Information Contact.* All questions or inquiries about this policy letter should be submitted to the Office of Management and Budget, Office of Federal Procurement Policy, telephone (202) 395-6810.

11. *Sunset Review Date.* This policy letter will be reviewed no later than six years after its effective date for extension, modification, or rescission.

Donald E. Sowle,
Administrator.

[FR Doc. 84-0760 Filed 4-10-84; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

[Order No. 559; Docket No. 84-9]

Atlanta, Ohio 43104 (Mr. & Mrs. John B. Farmer, Petitioners); Order Accepting Appeal and Establishing Procedural Schedule

Issued April 6, 1984.

Docket No.: A84-8.

Name of affected post office: Atlanta, Ohio 43104.

Name(s) of petitioner(s): Mr. and Mrs. John B. Farmer.

Type of determination: Closing.

Date of filing of appeal papers: March 29, 1984.

Categories of issues apparently raised:

1. Effect on Community Served by Office [39 U.S.C. 404(b)(2)(A)].

2. Effective and Regular Service [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before April 13, 1984.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Charles L. Clapp,
Secretary.

APPENDIX—ATLANTA, OHIO 43104

Mar. 29, 1984..... Filing of Petition.
Apr. 6, 1984..... Notice and Order of Filing of Appeal.
Apr. 18, 1984..... Last day for filing of petitions to intervene [see 39 CFR 3001.111(b)].
Apr. 30, 1984..... Petitioners' Initial Brief [see 39 CFR 3001.115(b)].
May 15, 1984..... Postal Service Answering Brief [see 39 CFR 3001.115(c)].
May 30, 1984..... (1) Petitioners' Reply Brief should petitioners choose to file one [see 39 CFR 3001.115(d)].
June 6, 1984..... (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [see 39 CFR 3001.116].
July 27, 1984..... Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 84-0693 Filed 4-10-84; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13866; (811-2228)]

Federated Income & Private Placement Fund; Filing of Application for an Order Pursuant to Section 8(f) of the Act Declaring That Applicant Has Ceased To Be an Investment Co.

April 5, 1984.

Notice is hereby given that Federated Income & Private Placement Fund ("Applicant"), 421 Seventh Avenue, Pittsburgh, PA 15219, registered as a closed-end, non-diversified,

management investment company under the Investment Company Act of 1940 ("Act"), filed an application on February 8, 1984, for an order, pursuant to Section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the relevant provisions.

Applicant, incorporated under the laws of Delaware in 1971, states that it registered, pursuant to Section 8(b) of the Act, on September 13, 1971, and, on the same date, filed its registration statement under the Securities Act of 1933. Applicant further states that its registration statement became effective on March 8, 1972, and an initial public offering commenced immediately thereafter.

The application states that the Agreement of Merger and the proposed Articles of Merger were authorized by Applicant's board of directors on February 2, 1983, and approved by a majority of its shareholders at a special meeting held on November 18, 1983. Applicant states that it was merged out of existence, pursuant to the applicable laws of the State of Delaware, on November 21, 1983, and, on the same date, shareholders of Applicant received 3,436,241 shares of capital stock of Federated High Income Securities, Inc., in exchange for 4,729,241 shares of capital stock of Applicant.

The application further indicates that Applicant has no assets, debts, or outstanding liabilities remaining, and it is not a party to any litigation or administrative proceeding. Applicant states that it had no security-holders at the time of filing of the application. Applicant further states that within the last 18 months it has not transferred any of its assets to a separate trust. Finally, Applicant states that it is not now engaged, and does not propose to engage, in any business activity other than those necessary to wind-up its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 30, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above.

Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84-0754 Filed 4-10-84; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/730]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 1, 1984, at 10:00 a.m., in Room 6320, Department of State, 2201 C Street, NW., Washington, D.C.

Study Group A deals with U.S. Government aspects of international telegram and telephone operations and tariffs. The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at international CCITT Study Group meetings, with particular interest in the upcoming final meetings this Plenary period of Study Groups I and III (May 7-15 and May 31-June 8).

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled. All persons wishing to attend the meeting must contact the office of Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: March 30, 1984

Earl S. Barbely,
Director, Office of International Communications Policy.

[FR Doc. 84-0651 Filed 4-10-84; 8:45 am]
BILLING CODE 4710-07-M

[CM-8/729]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Multilateral Investment Standards for Multinational Enterprises and U.N. Activities of the Advisory Committee on International Investment, Technology, and Development on Monday, April 30, 1984 from 10:00 to noon in Room 1912, Department of State, 2201 "C" Street, NW., Washington, D.C. 20520.

The purpose of the meeting will be to report on (1) the Tenth Meeting of the U.N. Commission on Transnational Corporations, and (2) preparations for the upcoming negotiations in the ECOSOC (May 7-11) on the U.N.'s Draft Guidelines for Consumer Protection, and to hear comments on the proposed Guidelines from those attending.

Members of the public wishing to attend the meeting must contact the Office of Investment Affairs ((202) 632-2728) in order to arrange admittance to

the State Department. Please use the "C" street entrance.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public at the meeting.

Dated: March 26, 1984.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 84-0662 Filed 4-10-84; 8:45 am]

BILLING CODE 4710-19-M

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****Applications for Exemptions**

AGENCY: Research and Special Programs Administration, Materials Transportation Bureau, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's

Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATE: Comment period closes May 10, 1984.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT:

Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, D.C.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9233-N	Diamond Shamrock Chemical Company, Irving, TX	49 CFR 173.164	To authorize shipment of chromic acid, solid, classed as an oxidizer, in non-DOT specification 900-cubic foot two-compartment self-proof covered hopper type tank motor vehicles. (mode 1).
9234-N	AMVAC Chemical Corporation, Los Angeles, CA	49 CFR 173.359	To authorize shipment of organic phosphate compound mixtures, liquid, Class B poison, in one gallon glass bottles, one per polystyrene pack, four packs per DOT Specification 33A polystyrene case. (mode 1).
9235-N	Bennett Industries, Peotone, IL	49 CFR 178.116-8	To manufacture, mark and sell DOT Specification 17E, 6 gallon, 24 gauge steel drums for shipment of those hazardous materials authorized in 17E drums. (modes 1, 2, 3).
9237-N	Morton Thiokol Inc., Elkton, MD	49 CFR 173.92	To authorize shipment of rocket motors, Class B explosive of 1,450 to 2,500 pound capacity each in specially designed packaging. (mode 1).
9238-N	International Minerals & Chemical Corporation, Mundelein, IL	49 CFR 172.101	To authorize shipment of methylamine, dimethylamine and trimethylamine described as methylamine anhydrous or methylamine aqueous, as appropriate. (modes 1, 2).
9239-N	Kane Closures Inc., Westfield, NJ	49 CFR 173.119	To authorize shipment of paint and related materials, classed as flammable liquid, in non-DOT specification all 20 gage steel, 30 gallon capacity drums except for 18 gage top removable head closed with a special bolted ring closure. (modes 1, 2).
9240-N	Federal Aviation Administration, Fort Worth, TX	49 CFR 175.3, 275.85, Part 172, Subpart C, D, E	To authorize eight cigarette lighters, containing flammable gas, packaged in specially designed containers to be carried in the passenger carrying cabin of an aircraft. (mode 5).
9241-N	Stoneco, Inc., Dacono, CO	49 CFR 172.101, 173.100, 173.86, 175.3	To authorize shipment of explosive projectile, class A explosive, described as pest control device, class C explosive when contained in specially designed packaging. (modes 1, 3, 4).
9242-N	Monsanto Company, St. Louis, MO	49 CFR 173.365	To authorize a one-time shipment of a waste poisonous solid, n.o.s., classed as a poison B, contained in a non-DOT specification 1,000 gallon capacity carbon steel portable tank. (mode 1).
9243-N	Abatar, Inc., Winter Park, FL	49 CFR 172.300, 172.411, 173.111(a)(3)	To authorize shipment of specially designed trick noise makers, explosive, Class C, without marking and labelling. (modes 1, 2, 3, 4).
9244-N	Stoneco, Inc., Dacono, CO	49 CFR 172.101, 173.100, 173.86, 175.3	To authorize shipment of special fireworks, class B explosive, described as pest repellent device, class C explosive when contained in specially designed packaging. (modes 1, 3, 4).
9245-N	Contico Container, Norwalk, CA	49 CFR Part 173, Subpart D, F	To manufacture, mark and sell 5 gallon capacity removable head polyethylene container for shipment of various corrosive materials and flammable liquids. (modes 1, 2, 3).

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on April 4, 1984.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84-9751 Filed 4-10-84; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, Materials Transportation Bureau, D.O.T.

ACTION: List of applications for renewal or modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes April 26, 1984.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, D.C.

Application No.	Applicant	Renewal of exemption
1479-X	Allied Chemical, Morristown, NJ	1479
3004-X	U.S. Department of Defense, Washington, DC	3004
3004-X	Union Carbide Corporation, Danbury, CT	3004
3302-X	Air Products and Chemicals, Inc., Allentown, PA	3302
3549-X	Morton Thiokol, Inc., Huntsville, AL	3549
3941-X	Pacific Engineering & Production Company of Nevada, Henderson, NV	3941
4052-X	The Boeing Co., Seattle, WA	4052
4291-X	United Technologies Chemical Systems, San Jose, CA	4291
4600-X	Great Lakes Chemical Corp., El Dorado, AR	4600
4612-X	Aldrich Chemical Company, Inc., Milwaukee, WI	4612
4612-X	ES Science, Division of EM Industries, Inc., Cincinnati, OH	4612
5038-X	Airco Industrial Gases, Murray Hill, NJ	5038
5414-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE	5414
6016-X	Kanwald Welding Equipment & Supplies, Kankakee, IL	6016
6016-X	Langdon Oxygen Co., Texarkana, TX	6016
6016-X	Huber Supply Company, Mason City, IA	6016
6016-X	Weiler Welding Company, Incorporated, Dayton, OH	6016
6016-X	Airco, Inc., Murray Hill, NJ	6016
6016-X	O. E. Meyer & Sons, Inc., Sandusky, OH	6016
6045-X	Union Carbide Corporation, Danbury, CT	6045
6305-X	Ensign Bickford Company, Simsbury, CT	6305
6308-X	Insta-Foam Products, Inc., Joliet, IL	6308
6418-X	Great Lakes Chemical Corp., El Dorado, AR	6418
6466-X	Ensign Bickford Company, Simsbury, CT	6466
6484-X	ANGUS Chemical Company, Northbrook, IL	6484
6904-X	Aldrich Chemical Company, Inc., Milwaukee, WI	6904
7024-X	S. I. Transportation, Inc., Burlington, NC	7024
7025-X	Liquid Air Corporation, San Francisco, CA	7025
7032-X	Polaroid Corporation, Needham Heights, MA	7032
7040-X	Polaroid Corporation, Needham Heights, MA	7040
7052-X	Technical Oil Tool Corporation, Norman, OK	7052
7052-X	DME Corporation, Pompano Beach, FL	7052
7052-X	Massachusetts Institute of Technology, Lexington, MA	7052
7052-X	GTE Products Corporation, Waltham, MA	7052
7052-X	Bunker Ramo Corp., Westlake Village, CA	7052
7052-X	The Boeing Co., Seattle, WA	7052
7052-X	Geophysical Research Corporation, Tulsa, OK	7052
7052-X	Rockwell International Corporation, Anaheim, CA	7052
7052-X	Plainview Electronics Corporation, Plainview, NY	7052
7052-X	SAFT America Inc., Cockeysville, MD	7052
7052-X	Eagle-Picher Industries, Inc., Joplin, MO	7052
7052-X	ENDECO, Inc., Marlton, NJ	7052
7052-X	Hazeltine Corporation, Braintree, MA	7052
7052-X	National Aeronautics and Space Administration, Washington, DC	7052
7052-X	Cubic Corporation, San Diego, CA	7052
7052-X	Electrochem Industries, Inc., Clarence, NY	7052
7060-X	Central Skyport Inc., Columbus, OH	7060
7070-X	Engelhardt Industries, Providence, RI	7070
7070-X	Lee-Ronal, Inc., Freeport, NY	7070
7070-X	Degussa Corporation, Teterboro, NJ	7070
7070-X	American Chemical & Refining Co., Inc., Waterbury, CT	7070
7070-X	Technic, Inc., Cranston, RI	7070
7070-X	Auric Corporation, Newark, NJ	7070
7070-X	Oxy Metal Industries Corporation, Nutley, NJ	7070
7654-X	Eastman Kodak Company, Rochester, NY	7654
7754-X	Hercules, Incorporated, Wilmington, DE	7754
7768-X	Plasti-Drum Corporation, Lockport, IL	7768
7777-X	Stablix, Ltd., Boynton Beach, FL	7777
7777-X	Sentry Chemical Company, Greeley, CO	7777
7811-X	EM Science, Cincinnati, OH	7811
7811-X	Burdick & Jackson Laboratories, Inc., Muskegon, MI	7811
7835-X	Wilson Oxygen and Supply, Inc., Austin, TX	7835
7891-X	Sigma-Aldrich Corporation, Saint Louis, MO	7891
7929-X	C-L Inc., North York, Ont. Canada	7929
7987-X	Stauffer Chemical Company, Westport, CT	7987
7998-X	Dow Chemical Co., Midland, MI	7998
8051-X	Mausser-Werke GmbH, Brul, West Germany	8051
8077-X	Rohm Haas and Company, Philadelphia, PA	8077
8080-X	Allied Chemical, Morristown, NJ	8080
8175-X	The Norac Company, Inc., Azusa, CA	8175
8337-X	I.M.E., Inc., Galva, IL	8337
8344-X	Farwest Sports Inc., Olympia, WA	8344
8369-X	Degussa Corporation, Teterboro, NJ	8369
8390-X	Eastman Kodak Company, Rochester, NY	8390
8390-X	Texes Instruments, Inc., Dallas, TX	8390
8396-X	Catalyst Resources, Inc., Elyria, OH	8396
8410-X	EM Science, A Division of EM Industries, Inc., Cincinnati, OH	8410
8414-X	SLEMI, Paris, France	8414
8414-X	Fauvet-Girel, Paris, France	8414
8432-X	U.S. Department of Defense, Washington, DC	8432
8465-X	Chase Bag Co., Oak Brook, IL	8465
8570-X	Snyder Industries, Inc., Lincoln, NE	8570
8597-X	McDonnell Douglas Corp., Saint Louis, MO	8597
8627-X	Champion Chemicals, Inc., Houston, TX	8627
8761-X	Mausser-Werke GmbH (Mausser Packaging Ltd.), New York, NY	8761
8786-X	Stablix, GMBH, Koblenz, West Germany	8786
8795-X	The Marison Company, South Elgin, IL	8795
8806-X	Naticco, Inc., Chicago, IL	8806
8844-X	Boill, Inc., Billings, MT	8844
8871-X	Chase Bag Co., Oak Brook, IL	8871
8872-X	Chase Bag Co., Oak Brook, IL	8872
8966-X	All Pure Chemical Company, Inc., Tracy, CA	8966
8971-X	NL McCullough/NL Industries, Inc., Houston, TX	8971
9016-X	Van Leer Verpackungen GmbH, Hamburg, West Germany	9016
9030-X	LND Incorporated, Oceanside, NY	9030
9052-X	Chemical Handling Equipment Co., Inc., Detroit, MI	9052
9144-X	Cejun Bag & Supply Company, Crowley, LA	9144
9176-X	Minnesota Valley Engineering, New Prague, MN	9176
9181-X	GTE Products Corporation, Waltham, MA	9181
9199-X	Cape Fear Tank Company, Inc., Wilmington, NC	9199

¹ To authorize not over 60% hydrogen peroxide solution in water, classed as an oxidizer, as an additional commodity.

² To authorize DOT Specification 111A100W2 tank car tanks which have been converted to DOT Specification 111A100W1 with a sparger system as additional containers.

³ To authorize shipment of hydrochloric acid, solutions, corrosive material of up to 32.5 percent strength as an additional commodity.

⁴ To modify cylinder by using one piece construction rather than three.

⁵ To authorize shipment of lacquer base, dry, flammable solid, in non-DOT specification drums without using the prescribed inside polyethylene bag.

⁶ To authorize a larger capacity ionization chamber for shipment of a compressed gas, n.o.s.

⁷ To authorize an alternate wirebound hardwood enclosure surrounding the polyethylene tank; to allow a 330 gallon capacity polyethylene tank; and to manufacture, these polyethylene tanks with or without bottom outlets.

⁸ To authorize sodium nitrate, classed as an oxidizer, as an additional commodity.

* To update design of the authorized cylinder and to add an new design cylinder for shipment of carbon dioxide.

Applica- tion No.	Applicant	Parties to exem- tion
4453-P	Mining Services International Corpora- tion, Salt Lake City, UT.	4453
4717-P	U.S. Industrial Chemicals Co., New York, NY.	4717
4850-P	GOEX, Inc., Cleburne, TX.	4850
5704-P	Morton Thiokol, Inc., Huntsville, AL.	5704
7052-P	Slipican Ocean Systems, Inc., Marion, MA.	7052
8091-P	BellSouth Services, Birmingham, AL.	8091
8129-P	Monsanto Company, St. Louis, MO.	8129
8129-P	Magnetic Peripherals, Inc., a Control Data Company, Santa Clara, CA.	8129
8129-P	Applied Technology, Inc., Toms River, NJ.	8129
8129-P	Mine Safety Appliances Company, Evans City, PA.	8129
8129-P	SET Liquids Waste Systems, Inc., Wheeling, IL.	8129
8129-P	Suffolk Services, Inc., Boston, MA.	8129
8129-P	University of California, Davis, Davis, CA.	8129
8308-P	All Points Courier, Inc., Piscataway, NJ.	8308
8445-P	Monsanto Company, St. Louis, MO.	8445
8525-P	Attentrefik Express Service, New York, NY.	8525
8843-P	GOEX, Inc., Cleburne, TX.	8843
8845-P	GOEX, Inc., Cleburne, TX.	8845
8870-P	Culligan International Company, North- brook, IL.	8870
8988-P	GOEX, Inc., Cleburne, TX.	8988
9169-P	Hugo Neu & Sons, Inc., New York, NY.	9169
9211-P	Watson Steamship Corporation, New Orleans, LA.	9211

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on April 4, 1984
J. R. Grothe,
Chief, Exemptions Branch, Office of
Hazardous Materials Regulation, Materials
Transportation Bureau.

[FR Doc. 84-9750 Filed 4-10-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Customs Service

Privacy Act of 1974, Proposed New System of Records

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed new system of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Customs Service, Operational Analysis Staff, gives notice of a proposed new system of records entitled "Treasury/Customs 00.287—Customs Automated Licensing Information System (CALIS)."

The new system centralizes and automates records on customhouse brokers, Customs bonded cartmen and lightermen, bonded warehouse and container stations for the New York

Region. Some of the information is already contained in existing Treasury Department systems of records, such as Treasury/Customs 00.041, "Cartmen or Lightermen," and Treasury/Customs 00.71, "Customhouse Brokers Records." (See Federal Register, March 12, 1981, pages 16512 and 16523 respectively.) Data will be extracted from other records such as Reports of Investigation, Regulatory Audit reports, Treasury Enforcement Communications System (TECS) entries, Search, Arrest and Seizure Reports, and various types of internal Government memoranda containing related business data. Information obtained from informants, Narcotic and Dangerous Drug Intelligence System (NADDIS) records and other investigatory resources will also be utilized.

By linking these records into one system CALIS will increase efficiency and effectiveness in the use of information already maintained by Customs. It provides an overview of the past performance of individuals and firms which are regulated by Customs through the granting of licenses or approvals. The system is intended to enhance the ability of analysts and investigators to identify criminal and regulatory violators through the centralization of records which become more significant when linked together.

Pursuant to 5 U.S.C. 552a (j) and (k), and 31 CFR 1.23, CALIS contains records which are exempt from certain provisions of the Privacy Act of 1974. The purpose of this exemption is to maintain the confidentiality of investigative materials compiled for law enforcement.

DATE: Those interested in submitting comments on the proposed new system of records may do so on or before May 11, 1984. A report on the new system was sent to the Congress and the Office of Management and Budget on April 11, 1984. The system will become effective 60 days from the date submitted to OMB (June 11, 1984), unless comments are received for which the Department of the Treasury subsequently publishes a revision of the system notice to incorporate those comments.

ADDRESS: Comments should be sent to: Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: David Dyregrov, Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

Dated: April 2, 1984.

David E. Pickford,
Acting Assistant Secretary.

TREASURY/CUSTOMS 00.287

SYSTEM NAME:

Customs Automated Licensing Information System (CALIS).

SYSTEM LOCATION:

ADP Branch, U.S. Customs Service, 6 World Trade Center, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms who have applied for or been granted licenses in the New York Region as customhouse brokers, or as bonded cartmen or lightermen, and officers, employees and associates of licensed customhouse brokers or licensed bonded cartmen or lightermen; individuals who have applied for or been granted approval to act as container station operators or bonded warehouse proprietors, firms which have applied for approval or been approved as container stations or bonded warehouses, and officers, employees and associates of approved container stations or approved bonded warehouses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, Social Security numbers, dates of birth, and other pertinent data extracted from Reports of Investigation, Regulatory Audit reports, Treasury Enforcement Communications System entries, and Search, Arrest, and Seizure Reports, information obtained from informants, reports from or to other law enforcement bodies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 1641; 19 CFR Part 111; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 1561; 19 CFR Part 112; 19 CFR Part 19; 19 U.S.C. 1556.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record or information from a record maintained in this system of records may be disclosed as a routine use:

(1) To appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting violations or for enforcing or implementing a statute, rule, registration, order, or license.

(2) To a Federal, state, or local agency which has requested information relevant to or necessary to its hiring or retention of an employee or issuance of

a security clearance, license, contract, grant, or other benefit.

(3) To Federal, state, local, or foreign agencies when necessary to obtain information relevant to the hiring or retention of an employee, or issuance of a security clearance, contract, license, grant, or other benefit to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel in the course of litigation or settlement negotiations or criminal law proceedings.

(5) To foreign governments in accordance with formal or informal international agreements.

(6) To a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

(7) To the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to civil and criminal proceedings.

(8) To unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

(9) To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc.

RETRIEVABILITY:

Records can be retrieved by name or personal identification numbers and by employer's name and employer's identification numbers.

SAFEGUARDS:

Access to the office where records are maintained is controlled at all times. A password is required to gain access to records in the computer. The office where the records are maintained is locked during non-working hours. The records are available to those personnel in Operational Analysis and other appropriate Customs personnel on a need-to-know basis.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes, and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Operational Analysis Officer, U.S. Customs Service, 6 World Trade Center, Room 748, New York, New York 10048.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed under the Privacy Act for the purpose of inspection.

CONTESTING RECORD PROCEDURES:

Since this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual and those records, if any, cannot be inspected, the system may not be accessed under the Privacy Act for the purpose of contesting the content of the record.

RECORD SOURCE CATEGORIES:

This system contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2).

[FR Doc. 84-9699 Filed 4-10-84; 8:45 am]
BILLING CODE 4820-02-M

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 509; Ref: ATF 0 1100.103A]

Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 285, Manufacture of Cigarette Papers and Tubes; Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.

2. *Cancellation.* ATF 0 1100.103, Delegation Order—Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 285, dated January 3, 1979, is canceled.

3. *Background.* Under current regulations, the Director has the authority to take final action on matters relating to the manufacture of cigarette papers and tubes. We have determined

that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To prescribe all forms required by regulations, under 27 CFR 285.2.

b. To approve, pursuant to written applications by manufacturers, the use of alternate methods or procedures in lieu of a method or procedure specifically prescribed in regulations and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 285.34a.

c. To withdraw authorization of any alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 285.34a.

d. To approve, pursuant to written applications by manufacturers, emergency variations from the methods of operation requirements specified in regulations and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 285.35.

e. To withdraw authorization of any emergency variation whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such variation, under 27 CFR 285.35.

5. Redelegation.

a. The authorities in paragraphs 4a, 4c, 4d, and 4e above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authority in paragraph 4b above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authority in paragraph 4b above may be redelegated to regional directors (compliance) to approve, without submission to Headquarters, applications which are identical to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of technical section supervisor.

d. The authorities in paragraphs 4c and 4e above may be redelegated to regional directors (compliance) to withdraw approval of alternate methods

or procedures and variations which were approved at the regional level. Regional directors (compliance) may redelegate these authorities to personnel not lower than the position of chief, technical services.

e. The authority in paragraph 4d above may be redelegated to regional directors (compliance), who may redelegate this authority to personnel not lower than the position of chief, technical services or area supervisor.

6. *For Information Contact.* David M. Purcell, Procedures Branch, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202) 566-7602.

7. *Effective date.* This delegation order becomes effective on April 11, 1984.

Approved: April 5, 1984.

W. T. Drake,
Acting Director.

[FR Doc. 84-9726 Filed 4-10-84; 8:45 am]

BILLING CODE 4810-31-M

[Notice No. 510; Ref. ATF O 1100.87A]

Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 213, Tax-Free Alcohol; Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.87, Delegation Order—Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 213, dated June 1, 1978, is canceled.

3. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the distribution and use of tax-free alcohol. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To prescribe all forms required by regulations, under 27 CFR 213.21.

b. To approve, pursuant to written applications:

(1) Alternate methods or procedures including alternate construction or equipment in lieu of methods or

procedures specifically prescribed in regulations, under 27 CFR 213.22(a).

(2) Emergency variations from specified requirements in regulations for construction, equipment, and methods of operations, under 27 CFR 213.22(b).

c. To withdraw authorization of any alternate method or procedure or of any variation whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization or variation, under 27 CFR 213.22.

d. To issue permits covering the use of tax-free spirits by the United States or a governmental agency, under 27 CFR 213.24.

e. To grant exceptions to the requirement that the use of tax-free alcohol or any resulting products be confined to the premises of a State, political subdivision, or District of Columbia, under 27 CFR 213.102.

f. To approve applications and to grant permits on ATF F 1444, Tax-Free Spirits for Use of United States, for the procurement of tax-free spirits for nonbeverage use; and to receive evidence of authority to sign for the head of a department or independent bureau or agency, under 27 CFR 213.142.

g. To cancel a permit issued on ATF F 1444 and returned by a governmental agency, under 27 CFR 213.145.

h. To authorize the disposition of excess spirits in the possession of a governmental agency, under 27 CFR 213.146.

i. To approve processes for reproducing records and the types of records to be reproduced, under 27 CFR 213.176.

5. Redelegation.

a. The authorities in paragraphs 4a, 4b(2), and 4c above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 4b(1) and 4d through 4i above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authorities in paragraphs 4b(1) and 4i above may be redelegated to regional directors (compliance) to approve, without submission to Headquarters, subsequent applications for alternate methods or procedures and processes and records which are identical to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate these authorities to personnel not lower than the position of technical section supervisor.

d. The authority in paragraph 4b(2) above to approve emergency variations and the authority in paragraph 4h above

to authorize the disposition of excess spirits may be redelegated to regional directors (compliance), who may redelegate these authorities to personnel not lower than the position of chief, technical services or area supervisor.

e. The authority in paragraph 4c above may be redelegated to regional directors (compliance) to withdraw approval of alternate methods or procedures and variations which were approved at the regional level. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of chief, technical services.

6. *For Information Contact.* David M. Purcell, Procedures Branch, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202) 566-7602.

7. *Effective Date.* This delegation order becomes effective on April 11, 1984.

Approved: April 5, 1984.

W. T. Drake,
Acting Director.

[FR Doc. 84-9727 Filed 4-10-84; 8:45 am]

BILLING CODE 4810-31-M

[Notice No. 511; Ref. ATF O 1100.104A]

Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 275, Importation of Tobacco Products; Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.104, Delegation Order—Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 275, dated January 3, 1979, is canceled.

3. *Background.* Under current regulations, the Director has the authority to take final action on matters relating to the importation of cigars, cigarettes, and cigarette papers and tubes. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To prescribe all forms required by regulations, under 27 CFR 275.21.

b. To approve, pursuant to written applications by importers, the use of alternate methods or procedures in lieu of a method or procedure specifically prescribed in regulations and to require the importer to retain, as part of his records, any approved authorizations, under 27 CFR 275.26.

c. To withdraw authorization of any alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 275.26.

d. To approve, pursuant to written applications by importers, emergency variations from the methods of operation requirements specified in regulations and to require the importer to retain, as part of his records, any approved authorizations, under 27 CFR 275.27.

e. To withdraw authorization of any emergency variation whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such variation, under 27 CFR 275.27.

5. *Redelegation.*

a. The authorities in paragraphs 4a, 4c, 4d, and 4e above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authority in paragraph 4b above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authority in paragraphs 4b above may be redelegated to regional directors (compliance) to approve, without submission to Headquarters, applications which are identical to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of technical section supervisor.

d. The authorities in paragraphs 4c and 4e above may be redelegated to regional directors (compliance) to withdraw approval to regional directors (compliance) to withdraw approval of alternate methods or procedures and variations which were approved at the regional level. Regional directors (compliance) may redelegate these authorities to personnel not lower than the position of chief, technical services.

e. The authority in paragraph 4d above may be redelegated to regional directors (compliance), who may redelegate this authority to personnel not lower than the position of chief, technical services or area supervisor.

6. *For Information Contact.* David M. Purcell, Procedures Branch, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202) 566-7602.

7. *Effective Date.* This delegation order becomes effective on April 11, 1984.

Approved: April 5, 1984.

W. T. Drake,
Acting Director.

[FR Doc. 84-9728 Filed 4-10-84; 8:45 am]

BILLING CODE 4810-31-M

[Notice No. 512; Ref: ATF O 1100.1070A]

Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 194, Liquor Dealers; Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.107, Delegation Order—Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 194, Liquor Dealers, dated February 6, 1979, is canceled.

3. *Background.* Under current regulations, the Director has authority to take final action on matters relating to liquor dealers. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To prescribe all forms required by 27 CFR Part 194, under 27 CFR 194.41.

b. To approve written applications for variations in the type and format of records of receipt and disposition or in the methods of preparing such records, in order to use data processing equipment, other business machines, or existing accounting systems, under 27 CFR 194.229.

5. *Redelegation.*

a. The authority in paragraph 4a above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authority in paragraph 4b above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF specialist.

6. *For Information Contact.* David M. Purcell, Procedures Branch, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202) 566-7602.

7. *Effective Date.* This delegation order becomes effective on April 11, 1984.

Approved: April 5, 1984.

W. T. Drake,
Acting Director.

[FR Doc. 84-9729 Filed 4-10-84; 8:45 am]

BILLING CODE 4810-31-M

[Notice No. 13; Ref: ATF O 1100.105A]

Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 270, Manufacture of Cigars and Cigarettes; Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.105, Delegation Order—Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 270, dated January 3, 1979, is canceled.

3. *Background.* Under current regulations, the Director has the authority to take final action on matters relating to the manufacture of cigars and cigarettes. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To prescribe all forms required by regulations, under 27 CFR 270.41.

b. To approve, pursuant to written applications by manufacturers of tobacco products, the use of alternate methods or procedures in lieu of a method or procedure specifically prescribed in regulations and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 270.45.

c. To withdraw authorization of any alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 270.45.

d. To approve, pursuant to written applications by manufacturers, emergency variations from methods of operation requirements specified in regulations and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 270.46.

e. To withdraw authorization of any variations whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such variations, under 27 CFR 270.46.

f. To approve, pursuant to written applications, the requests of manufacturers to engage in other businesses within the factory and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 270.47.

g. To approve, pursuant to written notice, where cigars or cigarettes are both packaged and removed subject to tax by the same manufacturer at the same or different factories, the use of an alternative mark as the name of the manufacturer; to approve a means to be used to identify on or in the package the factory where packaged; and to return copies of the approved notice to the manufacturer for retention as part of the factory records at each of the factories operated by the manufacturer, under 27 CFR 270.212.

5. *Redelegation.*

a. The authorities in paragraphs 4a, 4c, 4d, and 4e above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 4b, 4f, and 4g above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authorities in paragraphs 4b, 4f, and 4g above may be redelegated to regional directors (compliance) to approve, without submission to Headquarters, subsequent applications and notices which are identical to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate these authorities to personnel not lower than the position of technical section supervisor.

d. The authorities in paragraphs 4c and 4e above may be redelegated to regional directors (compliance) to withdraw approval of alternate methods or procedures and variations which were approved at the regional level. Regional directors (compliance) may redelegate these authorities to personnel not lower than the position of chief, technical services.

e. The authority in paragraph 4d above may be redelegated to regional directors (compliance), who may redelegate this authority to personnel

not lower than the position of chief, technical services or area supervisor.

8. *For Information Contact.* David M. Purcell, Procedures Branch, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202) 566-7602.

7. *Effective Date.* This delegation order becomes effective on April 11, 1984.

Approved: April 5, 1984.

W. T. Drake,
Acting Director.

[FR Doc. 84-0730 Filed 4-10-84; 8:45 am]

BILLING CODE 4810-31-M

[Notice No. 514; Ref: ATF O 1100.106A]

Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 295, Tobacco Products for the United States; Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.106, Delegation Order—Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 295, dated January 3, 1979, is canceled.

3. *Background.* Under current regulations, the Director has the authority to take final action on matters relating to the removal of cigars, cigarettes, and cigarette papers and tubes, without payment of tax, for use of the United States. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To approve, pursuant to written applications by manufacturers, the use of alternate methods or procedures in lieu of a method or procedure specifically prescribed in regulations and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 295.21.

b. To withdraw authorization of any alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 295.21.

c. To approve, pursuant to written applications by manufacturers, emergency variations from the methods

of operation requirements specified in regulations and to require the manufacturer to retain, as part of his records, any approved authorizations, under 27 CFR 295.22.

d. To withdraw authorization of any variations whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such variations, under 27 CFR 295.22.

e. To approve, pursuant to written notice, where cigars or cigarettes are both packaged and removed by the same manufacturer at the same or different factories, the use of an alternative mark as the name of the manufacturer; to approve the means to be used to identify on or in the package the factory where packaged; and to return copies of the approved notice to the manufacturer for retention as part of the factory records at each of the factories operated by the manufacturer, under 27 CFR 295.42.

5. *Redelegation.*

a. The authorities in paragraphs 4b, 4c, and 4d above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 4a and 4e above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authorities in paragraphs 4a and 4e above may be redelegated to regional directors (compliance) to approve, without submission to Headquarters, subsequent applications and notices which are identical to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate these authorities to personnel not lower than the position of technical section supervisor.

d. The authorities in paragraphs 4b and 4d above may be redelegated to regional directors (compliance) to withdraw approval of alternate methods or procedures and variations which were approved at the regional level. Regional directors (compliance) may redelegate these authorities to personnel not lower than the position of chief, technical services.

e. The authority in paragraph 4c above may be redelegated to regional directors (compliance), who may redelegate this authority to personnel not lower than the position of chief, technical services or area supervisor.

6. *For Information Contact.* David M. Purcell, Procedures Branch, 1200 Pennsylvania Avenue NW., Washington, DC 20226, (202) 566-7602.

7. *Effective Date.* This delegation

order becomes effective on April 11, 1984.

Approved: April 5, 1984.

W. T. Drake,
Acting Director.

[FR Doc. 84-9731 Filed 4-10-84; 8:45 am]

BILLING CODE 4810-31-M

[Notice No. 515; Ref: ATF O 1100.90A]

Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 21, Formulas for Denatured Alcohol and Rum; Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.90, Delegation Order—Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 212, dated June 12, 1978, is canceled.

3. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the formulation of denature alcohol and rum. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To prescribe all forms required by regulations, under 27 CFR 21.2.

b. To approve applications by denaturers to dispose of stocks of denaturants or formulas of specially denatured spirits no longer authorized by regulations, under 27 CFR 21.3(d).

c. To approve applications by denaturers to denature spirits in accordance with formulas prescribed by the government of a foreign country to which the denatured spirits will be exported, under 27 CFR 21.5.

d. To authorize the use of alcohol of less than 185 degrees of proof in the manufacture of formulas of specially denatured alcohol, under 27 CFR 21.31(b).

e. To approve applications for variation from the denaturant specifications set forth in subpart E of 27 CFR Part 21 or the use of substitute denaturants in order to meet the requirements of national defense or for other valid reasons, whenever such variations or substitution will not

jeopardize the revenue, under 27 CFR 21.91.

5. *Coordination With Other Offices.* To complete the action in paragraphs 4b through 4e above, coordination will be made, as deemed necessary, with the Director, Office of Laboratory Services.

6. *Redelegation.*

a. The authority in paragraph 4a above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 4b through 4e above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF specialist.

7. *For Information Contact.* David M. Purcell, Procedures Branch, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202) 566-7602.

8. *Effective Date.* This delegation order becomes effective on April 11, 1984.

Approved: April 5, 1984.

W. T. Drake,
Director.

[FR Doc. 84-9732 Filed 4-10-84; 8:45 am]

BILLING CODE 4810-31-M

[Notice No. 516; Ref: ATF O 1100.97A]

Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 231, Taxpaid Wine Bottling Houses; Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.97, Delegation Order—Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 231, dated September 21, 1978, is canceled.

3. *Background.* Under current regulations, the Director has authority to take final action on matters relating to approval of the bottling and packaging of taxpaid United States and foreign wines. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To prescribe all forms required by regulations including applications, notices, reports, returns, and records, under 27 CFR 231.2.

b. To approve applications for:

(1) Alternate methods or procedures including alternate construction or equipment in lieu of a method or procedure specifically prescribed in regulations, under 27 CFR 231.120(a).

(2) Emergency variations from requirements for construction, equipment, and methods of operations, under 27 CFR 231.120(b).

c. To withdraw authorization for any alternate method, procedure or emergency variation whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization or variation, under 27 CFR 231.120(a) and (b).

5. *Redelegation.*

a. The authorities in paragraphs 4a, 4b(2), and 4c above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authority in paragraph 4b(1) above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF Specialist.

c. The authority in paragraph 4b(1) above may be redelegated to regional directors (compliance) to approve, without submission to Headquarters, subsequent applications for alternate methods or procedures which are identical to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of technical section supervisor.

d. The authority in paragraph 4b(2) above to approve emergency variations may be redelegated to regional directors (compliance), who may redelegate this authority to personnel not lower than the position of chief, technical services or area supervisor.

e. The authority in paragraph 4c above may be redelegated to regional directors (compliance) to withdraw approval of alternate methods or procedures and emergency variations which were approved at the regional level. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of chief, technical services.

For Information Contact. Virginia Yusken, Procedures Branch, 1200 Pennsylvania Avenue NW., Washington, DC 20226, (202) 566-7602.

7. *Effective Date.* This delegation order becomes effective on April 11, 1984.

Approved: April 5, 1984.

W. T. Drake,
Acting Director.

[FR Doc. 84-9733 Filed 4-10-84; 8:45 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register

Vol. 49, No. 71

Wednesday, April 11, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

Consumer Product Safety Commission	1
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1

CONSUMER PRODUCT SAFETY COMMISSION

Revised Agenda

TIME AND DATE: 9:30 a.m., Wednesday, April 11, 1984.

LOCATION: Third Floor Hearing Room, 1111 18th Street, N.W., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

- Squeeze Toys: Options**
The Commission will consider options to address the choking hazards associated with squeeze toys and similar products.
- Toy Age Labeling: Status**
The staff will brief the Commission on the status of staff and industry activities on age labeling for children's products.
- Comments on the Formaldehyde Standard for Pressed Wood**
The Commission will consider comments on the Formaldehyde Standard for Pressed Wood proposed by the Department of Housing and Urban Development.
*Closed to the Public ***
- Compliance Status Report**
The staff will brief the Commission on a Compliance Status Report.
- Enforcement Matter OS #4131a**
The Commission will consider issues

related to Enforcement Matter OS #4131a.
6. Enforcement Matter OS #4131: Status Report

The staff will brief the Commission on the status of Enforcement Matter OS #4131.

* Items No. 3 and 5 have been added and the meeting time has been changed.

** Meeting may extend into the afternoon.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207, 301-492-6800.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 84-9759 Filed 4-9-84; 8:57 am]

BILLING CODE 6355-01-M

2

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 9 a.m., Monday, April 9, 1984.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, N.W.

STATUS: Closed to public observation pursuant to 5 U.S.C. 552b(c)(2) (internal personnel rules and practices).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE

INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 254-9430.

Dated: Washington, D.C., April 6, 1984.

By direction of the Board.

John C. Truesdale,
Executive Secretary, National Labor Relations Board.

[FR Doc. 84-9787 Filed 4-9-84; 8:45 am]

BILLING CODE 7545-01-M

3

SECURITIES AND EXCHANGE COMMISSION
"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: (To be published.)

STATUS: Open meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, April 3, 1984.

CHANGE IN THE MEETING: Additional item. The following additional item will be considered at an open meeting scheduled for Thursday, April 12, 1984, at 10:00 a.m.

Consideration of whether to issue releases: setting aside, in part, proposed fees of the National Association of Securities Dealers, Inc. ("NASD") as an inappropriate limitation on the Institutional Networks Corporation's access to certain NASD quotation information; expanding the current proceeding to cover quotation information on all securities in the NASDAQ system; and modifying the terms of the interim relief currently in effect; and approving in part and disapproving in part the NASD's proposed fees. For further information, please contact William W. Uchimoto at (202) 272-2409.

Chairman Shad and Commissioners Treadway and Cox determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Marianne Keler at (202) 272-2014.

Dated: April 4, 1984.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84-9753 Filed 4-6-84; 5:14 pm]

BILLING CODE 8010-01-M

Federal Register

Wednesday
April 11, 1984

Part II

Department of Energy

Federal Energy Regulatory Commission

NGPA Notices of Determination by
Jurisdictional Agencies; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Vol. 1100]

NGPA Notices of Determination by
Jurisdictional Agencies

Issued: April 6, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83-50-000, 49 FR 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, will not be published in the Federal Register. Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 478-4808, 5285

Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

- Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New res. on old OCS lease
- Section 103: New onshore production well
- Section 107-DP: 15,000 ft or deeper
107-GB: Geopressured brine
107-DV: Devonian shale
107-CS: Coal seam gas
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
- Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Temporary pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED APRIL 6, 1984

VOLUME 1100

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

TEXAS RAILROAD COMMISSION								

ADDRE OIL & GAS CORPORATION								
8424968	F-08-078366	4231732838	103		RECEIVED: 03/16/84 JA: TX EPLEY "A" #5	SPRABERRY (TREND AREA	9.0	NORTHERN NATURAL
8424893	F-08-078072	4208332292	108		RAMSON #1	HOARDS CREEK MORRIS 5	31.0	EL PASO NATURAL G
8424967	F-08-078365	4231732810	103		TOM "A" #3	SPRABERRY (TREND AREA	9.0	NORTHERN NATURAL
8425062	F-08-078899	4231732854	103		YATER #2	SPRABERRY (TREND AREA	8.0	NORTHERN NATURAL
ALAN P. HEWITT								
8425166	F-08-079191	4204932454	103		RECEIVED: 03/16/84 JA: TX HICKMAN "E" #1	BROWN COUNTY REGULAR	10.9	LONE STAR GAS CO
AMERADA HESS CORPORATION								
8425205	F-08-079330	4216932676	103		RECEIVED: 03/16/84 JA: TX SEMINOLE SAN ANDRES UNIT #2315	SEMINOLE SAN ANDRES	10.0	PHILLIPS PETROLEUM
8425206	F-08-079331	4216932135	103		SEMINOLE SAN ANDRES UNIT #3526	SEMINOLE SAN ANDRES	60.0	PHILLIPS PETROLEUM
AMINOIL USA, INC.								
8425387	F-08-078032	4200333547	103		RECEIVED: 03/16/84 JA: TX UNIVERSITY 28 "B" #8	SOUTH ANDREWS (WOLFCA	28.0	EL PASO NATURAL G
AMOCO PRODUCTION CO.								
8425207	F-02-079335	4239130585	103		RECEIVED: 03/16/84 JA: TX MARY ELLEN OCONNOR #44	MARY ELLEN OCONNOR /F	18.0	LA ROSA CORP
8425060	F-04-078887	4248930734	103		WILLAMAR WEST MIOCENE UNIT # M-15	WILLAMAR WEST (MIOCEN	130.0	NATURAL GAS PIPEL
ARCO OIL AND GAS COMPANY								
8425051	F-08-078861	4213533421	103		RECEIVED: 03/16/84 JA: TX B H BLAKENEY "B" WELL #7	NORTH COWDEN (DEEP)	0.7	AMOCO PRODUCTION
8425049	F-08-078859	4213533422	103		B H BLAKENEY "B" WELL #8	NORTH COWDEN	48.2	AMOCO PRODUCTION
8425048	F-08-078858	4213533413	103		B H BLAKENEY "C" WELL #6	NORTH COWDEN DEEP (HO	1.4	AMOCO PRODUCTION
8425047	F-08-078857	4213533270	103		CORRIGAN COWDEN UNIT #103	NORTH COWDEN	4.0	AMOCO PRODUCTION
8425045	F-08-078855	4213533079	103		FAY HOLT #10	NORTH COWDEN	10.5	AMOCO PRODUCTION
8425041	F-08-078849	4213533611	103		J L JOHNSON "AB" #119	JOHNSON	6.0	AMOCO PRODUCTION
8425052	F-08-07886	4213533416	103		J L JOHNSON "AB" #151	JOHNSON	1.7	AMOCO PRODUCTION
8425042	F-08-078850	4213533907	103		J L JOHNSON "AB" WELL #139	JOHNSON	3.3	AMOCO PRODUCTION
8425044	F-08-078852	42135334074	103		J L JOHNSON "AB" WELL #146	JOHNSON	6.0	AMOCO PRODUCTION
8425054	F-08-078864	42135336198	103		J L JOHNSON "AB" WELL #148	JOHNSON	7.6	AMOCO PRODUCTION
8425043	F-08-078851	42135334197	103		J L JOHNSON "AB" WELL #149	JOHNSON	2.0	AMOCO PRODUCTION
8425053	F-08-078863	42135334196	103		J L JOHNSON "AB" WELL #150	JOHNSON	3.0	AMOCO PRODUCTION
8425040	F-08-078848	4213533015	103		J L JOHNSON "AB" WELL #93	JOHNSON	4.0	AMOCO PRODUCTION
8425050	F-08-078860	4213533825	103		J L JOHNSON "H" WELL #6	JOHNSON (HOLT)	1.5	AMOCO PRODUCTION
8425046	F-08-078856	4213528266	103		TXL "H" #2	LAWSON (SAN ANDRES)	5.0	PHILLIPS PETROLEUM
ARKLA EXPLORATION COMPANY								
8425190	F-08-079270	4236531543	102-3		RECEIVED: 03/16/84 JA: TX 107-TF B A RITTER #1	CARTHAGE (COTTON VALL	273.0	ARKANSAS LOUISIAN
8425183	F-06-079254	4236531360	102-3		107-TF IVY #1	CARTHAGE	365.0	ARKANSAS LOUISIAN
8425191	F-06-079271	4236531512	102-3		107-TF S Q CLEMENTS #1	CARTHAGE (COTTON VALL	450.0	ARKANSAS LOUISIAN
8425192	F-06-079278	4236531327	102-3		107-TF SAULS #1	CARTHAGE (COTTON VALL	440.0	ARKANSAS LOUISIAN
B. D. PRODUCTION CO. INC.								
8424959	F-02-078317	4212331283	103		RECEIVED: 03/16/84 JA: TX REIFFERT GAS UNIT "B" WELL #2	REIFFERT (YEGUA 5390)	12.0	VALERO TRANSMISSI
BARRON KIDD								
8424898	F-08-078089	4200333778	103		RECEIVED: 03/16/84 JA: TX UNIVERSITY 47 #3	FUHRMAN-MASCHO	0.0	PHILLIPS PETROLEUM
8424897	F-08-078088	4200333776	103		UNIVERSITY 47A #4	FUHRMAN-MASCHO	0.0	PHILLIPS PETROLEUM
8424896	F-08-078087	4200333777	103		UNIVERSITY 47A #5	FUHRMAN-MASCHO	0.0	PHILLIPS PETROLEUM
BEST PETROLEUM EXPLORATION INC.								
8425066	F-09-078907	4223735510	103		RECEIVED: 03/16/84 JA: TX HONEY #1 (23714)	DEARING (CADD0)	45.0	LONE STAR GAS CO
BRAZOS PETROLEUM CO.								
8425167	F-08-079192	4231732788	103		RECEIVED: 03/16/84 JA: TX HEIDELBERG #1	SPRABERRY (TREND AREA	20.0	PHILLIPS PETROLEUM

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JD NO	JA DKT	API NO	D SEC(1) SEC(2) WELL NAME	FIELD NAME	PROD	PURCHASER
8425168	F-8A-079193	4211331876	103 MASSON #1	GIN (SPRABERRY)	13.0	PHILLIPS PETROLEUM
-BURNS PETROLEUM			RECEIVED: 03/16/84 JA: TX			
8425105	F-09-079058	4207733016	102-4 BURNS RANCH "A" #1	TALLY (CONGL)	146.0	TEXAS UTILITIES F
8425103	F-09-079056	4207733150	102-4 BURNS RANCH "A" #2	TALLY (CONGL)	146.0	TEXAS UTILITIES F
-C A C DRILLING INC			RECEIVED: 03/16/84 JA: TX			
8425165	F-7B-079187	4208333056	102-4 J L KELSEY #1 (20302)	TALPA (DOG BEND)	9.0	UNION TEXAS PETRO
-CAL-T OIL CO			RECEIVED: 03/16/84 JA: TX			
8425089	F-10-079023	4223331598	103 H W CARVER (00728) #12	PANHANDLE - HUTCHINSON	44.2	DIAMOND CHEMICAL
-CASS OIL CO			RECEIVED: 03/16/84 JA: TX			
8425024	F-7C-078793	4243333008	103 107-TF ALLISON-MIERS 1304 RRC #108046	SAWYER (CANYON)	0.0	EL PASO NATURAL G
8425169	F-7C-079207	4238332607	103 HUGHES BRONSON B #1 RRC NO 10426	SPRABERRY (TREND AREA)	36.0	PHILLIPS PETROLEUM
8425170	F-7C-079209	4238332778	103 HUGHES 14 #4	SPRABERRY (TREND AREA)	28.0	EL PASO NATURAL G
8425171	F-7C-079210	4238332777	103 HUGHES 14 B #2	SPRABERRY (TREND AREA)	28.0	EL PASO NATURAL G
-CEDAR OIL CO			RECEIVED: 03/16/84 JA: TX			
8425011	F-7B-078746	4208333321	103 GARY M VAUGHN #2	COLEMAN COUNTY REGULA	15.0	UNION TEXAS PETRO
8425009	F-7B-078744	4208330000	103 GARY M VAUGHN #24	COLEMAN COUNTY REGULA	54.8	UNION TEXAS PETRO
8425010	F-7B-078745	4208333338	103 GARY M VAUGHN #3	COLEMAN COUNTY REGULA	220.0	UNION TEXAS PETRO
8425008	F-7B-078743	4244132226	103 MARY ELIZABETH ALLYN #1	TAYLOR COUNTY REGULAR	1.5	LONE STAR GAS CO
8425007	F-7B-078742	4244100000	103 MARY ELIZABETH ALLYN #2	TAYLOR COUNTY REGULAR	4.0	LONE STAR GAS CO
8425006	F-7B-078741	4244132225	103 MARY ELIZABETH ALLYN #3	TAYLOR COUNTY REGULAR	0.7	LONE STAR GAS CO
-CHAMPLIN PETROLEUM COMPANY			RECEIVED: 03/16/84 JA: TX			
8424964	F-08-078349	4243131402	102-4 107-TF I W TERRY #17	CONGER SW (PENN)	36.5	NORTHERN NATURAL
-CITIES SERVICE OIL & GAS CORP			RECEIVED: 03/16/84 JA: TX			
8425004	F-08-078737	4213534318	103 FOSTER GBSA UNIT #707	COWDEN SOUTH	12.0	PHILLIPS PETROLEUM
8425204	F-08-079328	4213534291	103 RHODES COWDEN UNIT #455	COWDEN NORTH	5.0	AMOCO PRODUCTION
-CLEAR FORK ENERGY RESOURCES INC			RECEIVED: 03/16/84 JA: TX			
8425091	F-09-079030	4250300000	103 HAZEL P LEWELLING "A" #1 (23615)	JAMES (CADD 4225)	14.0	EAGLE THRIFTWAY G
-CONOCO INC			RECEIVED: 03/16/84 JA: TX			
8425065	F-08-078906	4210931720	103 G E RAMSEY 10- #2 ID 28432	FORD WEST 4100	0.4	EL PASO NATURAL G
8425102	F-7B-079047	4243300000	108 GUEST CANYON SAND UNIT #49 ID 10855	GUEST	0.0	CITIES SERVICE CO
8424895	F-08-078082	4238931438	102-4 103 HUCKABEE #2 ID 28343	JESS BURNER (DELAWARE)	146.0	EL PASO NATURAL G
8425064	F-7B-078905	4215131765	103 ROUND TOP PALO PINTO #172 ID 11416	ROUND TOP	67.5	LONE STAR GAS CO
8424996	F-08-078685	4238931343	103 W E BELL 44 #16 ID 27756	JESS BURNER	4.1	EL PASO NATURAL G
-CONQUEST EXPLORATION CO			RECEIVED: 03/16/84 JA: TX			
8425002	F-7C-078734	4210534618	103 107-TF FRED W DOBSON 1-29	DAVIDSON RANCH (PENN)	200.0	INTRATEX GAS CO
-CREWS OIL CO			RECEIVED: 03/16/84 JA: TX			
8425005	F-7C-078738	4239933052	102-4 HOGSDON #1	KING (ELLENBURGER)	105.0	LONE STAR GAS CO
-DIAMOND SHAMROCK EXPLORATION CO			RECEIVED: 03/16/84 JA: TX			
8424999	F-10-078721	4239330958	102-2 ALBERT REYNOLDS #1-7	CATS CREEK	0.0	
8425149	F-10-079130	4235731315	103 LUCIAN L MORRISON #1	DUTCHER	0.0	
-DON H HANVEY OIL INTERESTS INC			RECEIVED: 03/16/84 JA: TX			
8424991	F-7B-078630	4213351213	102-4 HANVEY-FEE #5 RRC LEASE NO 107299	ARDINGER (LAKE SAND U	280.0	EL PASO HYDROCARB
-DORCHESTER GAS PRODUCING CO			RECEIVED: 03/16/84 JA: TX			
8425092	F-10-079034	4206500000	108 BOBBITT #2 (107392)	PANHANDLE WEST	16.0	NORTHERN NATURAL
-EADS OPERATING CO			RECEIVED: 03/16/84 JA: TX			
8425161	F-03-079179	4207130896	102-4 STATE TRACT 292 #1	SEABROOK E (FRIO 8500	199.0	UNITED TEXAS TRAN
-EDWARDS & LEACH OIL CO			RECEIVED: 03/16/84 JA: TX			
8424929	F-10-078219	4219530866	103 DONNIE L THORESON #1	HITCHLAND (ATOKA)	50.0	PANHANDLE EASTPHN
-ENSERCH EXPLORATION INC			RECEIVED: 03/16/84 JA: TX			
8424949	F-08-078277	4232900000	108 L B EPLEY #1	AZALEA	0.0	EL PASO HYDROCARB
-ESENJAY PETROLEUM CORP			RECEIVED: 03/16/84 JA: TX			
8424995	F-02-078682	4217531784	102-2 103 ARCHIE FROMME GAS UNIT #1	GOLIAD NORTH (5600)	2.5	
-EXCHANGE OIL & GAS CORPORATION			RECEIVED: 03/16/84 JA: TX			
8425074	F-06-078957	4233068900	102-2 THOMAS #1	LINDALE (RODESSA B-3)	0.0	WESTERN GAS CORP
-EXXCEL PRODUCTION CO			RECEIVED: 03/16/84 JA: TX			
8424987	F-10-078596	4206531553	103 EMILY #5	PANHANDLE CARSON	40.0	KERR-MCGEE CORP
8424988	F-10-078597	4217931509	103 JAYCEE #1	PANHANDLE GRAY	40.0	KERR-MCGEE CORP
-EXXON CORPORATION			RECEIVED: 03/16/84 JA: TX			
8425201	F-03-079321	4207131454	103 A D MIDDLETON A/C 1 #100	ANAHUAC (FB A-2 FRIO	365.0	HOUSTON PIPELINE
8424965	F-05-078351	4216130774	102-4 107-TF C L CARROLL (CV) GU 1 #1	NAN-SU-GAIL (COTTON V	825.0	TEJAS GAS CORP
8425152	F-06-079137	4207330544	103 CARTER-STATE (NECHES CONS OU-15) #5	NECHES (WOODBINE)	45.0	UNITED GAS PIPEL
8424899	F-03-078099	4224531699	103 E K FAIRLOP #9	LOVELL LAKE NORTH	73.0	ARMCO STEEL CORP
8425196	F-04-079298	4213136185	107-DP EXXON-LICHTENBERGER FEE #7 107587	SEVEN SISTERS EAST (O	7422.3	ARMCO STEEL CORP
8425197	F-04-079299	4213136227	102-4 EXXON-LICHTENBERGER FEE #8 107190	SEVEN SISTERS EAST (O	7519.0	ARMCO STEEL CORP
8424966	F-05-078356	4216130763	102-4 107-TF F H CRENSHAW (CV) GAS UNIT 1 #1	NAN-SU-GAIL (COTTON V	840.0	TEJAS GAS CORP
8425193	F-02-079283	4239131634	102-4 F V W HEARD #28 108312	GRETA (L-12 STRINGER)	518.3	ARMCO STEEL CORP
8425059	F-06-078882	4245930579	102-4 107-TF GLADEWATER GAS UNIT 14 #1	GLADEWATER (HAYNESVIL	803.0	ARMCO STEEL CORP
8425203	F-06-079326	4249931219	103 HAWKINS FIELD UNIT #34364	HAWKINS	18.0	
8425198	F-06-079307	4249931214	103 HAWKINS FIELD UNIT #3513	HAWKINS	128.0	
8425199	F-06-079317	4249931216	103 HAWKINS FIELD UNIT #721	HAWKINS	50.0	
8425180	F-08-079241	4210332422	108 J B TUBB A/C 2 #240	SAND HILLS (MCKNIGHT	6.0	EL PASO NATURAL G
8424980	F-08-078524	4210333316	103 J B TUBB A/C 2 #289	SAND HILLS (JUDKINS)	46.0	EL PASO NATURAL G
8424985	F-04-078580	4226130748	102-4 JOHN G KENEDY JR "C" #22 (108550)	MIFFLIN (I-22)	365.0	NATURAL GAS PIPEL
8425118	F-04-079074	4226130820	103 K R SAN JOSE DE LA PARRA 55 106851	CALANDRIA (H-73)	120.0	ARMCO STEEL CORP
8425112	F-04-079068	4227331349	102-4 KING RANCH ALAZAN 334 (06998)	ALAZAN (I-96 C) (ALL	14.0	ARMCO STEEL CORP
8425111	F-04-079067	4227331508	102-4 KING RANCH ALAZAN 351-D (06998)	ALAZAN (G-02 W) (ALL	40.0	ARMCO STEEL CORP
8425113	F-04-079069	4227331756	102-4 KING RANCH BORREGOS M-33-B (108400)	BORREGOS (ZONE N-11-B	91.0	ARMCO STEEL CORP
8425114	F-04-079070	4227331789	102-4 KING RANCH BORREGOS MB-37 (106749)	STRATTON (G-00 SW)	146.0	ARMCO STEEL CORP
8425154	F-04-079145	4227331763	102-4 KING RANCH BORREGOS 570-D (108563)	BORREGOS (N-25 SW A)	644.0	ARMCO STEEL CORP
8425179	F-7C-079240	4208100000	108 KING RANCH BORREGOS 594 (106067)	BORREGOS (ZONE V-19 N	659.0	ARMCO STEEL CORP
8425200	F-03-079319	4216730943	103 LOU E STEWART ESTATE "B" #6	JAMESON (STRAWN)	7.0	EL PASO NATURAL G
8425184	F-7C-079057	4238332726	102-4 MACO STEWART "A" A/C 1 #42	DICKINSON DEEP (FRIO	70.0	ENTEX INC
8424963	F-03-078346	4208931406	103 MARY KATHERINE TRIGO #1	RED HOUSE (ELLENBURGE	186.0	
8425194	F-04-079284	4204731303	102-4 MELVIN A WILLIAMS TR 2 #2	EAST HAMEL (1980)	250.0	ARMCO STEEL CORP
8425117	F-04-079073	4226130803	102-4 R J KLEBERG JR TR STILLMAN 56 106772	VIBORAS (8500 SOUTH)	13.0	ARMCO STEEL CORP
8425189	F-04-079065	4226130802	103 R J KLEBERG JR TR STILLMAN 56 106772	TORDILLA (I-67 N)	36.0	ARMCO STEEL CORP
8425115	F-04-079071	4204731305	102-4 R J KLEBERG JR TR STILLMAN 60 108317	STILLMAN (SHALLOW)	813.0	ARMCO STEEL CORP
8424982	F-8A-078069	4216532531	103 R J KLEBERG JR TR QUINTERA 115005376	VIBORAS (F-68 SAND)	72.0	ARMCO STEEL CORP
8424902	F-8A-078148	4216532531	103 ROBERTSON CLEARFORK UNIT #2901	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEUM
8425150	F-04-079132	4204731262	103 ROBERTSON CLEARFORK UNIT #4901	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEUM
8425187	F-03-079260	4220131616	103 SCOTT & HOPPER 45 (08450)	SCOTT & HOPPER	24.0	TENNESSEE GAS PIPE
8425202	F-03-079325	4220131626	103 WEBSTER FIELD UNIT #1324	WEBSTER	187.0	HOUSTON PIPELINE
8425055	F-03-078870	4220131626	103 WEBSTER FIELD UNIT #1325	WEBSTER	280.0	HOUSTON PIPELINE
-FLAC-REDFERN OIL CO			RECEIVED: 03/16/84 JA: TX			
8425189	F-08-079268	4237134561	103 WEBSTER FIELD UNIT #1830	WEBSTER	110.0	HOUSTON PIPELINE
-FLORIDA GAS EXPLORATION COMPANY			RECEIVED: 03/16/84 JA: TX			
8425139	F-06-079102	4200131401	102-4 MCDONALD #3-L	PITNAM (ELLENBURGER)	36.5	DELHI GAS PIPELIN
8425138	F-06-079101	4200131199	102-4 C M HINZIE #1 - S/N 11051	BOIS D ARC (RODESSA)	198.0	ESPERANZA PIPELIN
-FLYNN ENERGY CORP			RECEIVED: 03/16/84 JA: TX			
8424943	F-02-078246	4229700000	103 P WILLIAMS #1 - S/N 097816	BOIS D ARC (RODESSA)	273.0	ESPERANZA PIPELIN
-FORA CO			RECEIVED: 03/16/84 JA: TX			
8425087	F-10-079014	4223331775	103 HERRING RANCH 63 #1	CLAYTON (QUEEN CITY)	182.0	LONE STAR GAS CO
-FOUR C'S OIL CO			RECEIVED: 03/16/84 JA: TX			
8425087	F-10-079014	4223331775	103 MITTIE STEVENSON 5A	PANHANDLE HUTCHINSON	14.6	PANHANDLE PRODUCT

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JO NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8425153	F-10-079141	4206531618	103		BERREY #2 (ID #)	PANHANDLE CARSON	40.0	KERR-MCGEE CORP
FOUR WAY JOINT VENTURE			RECEIVED:	03/16/84	JA: TX			
8425026	F-7B-078801	4225332764	102-4		BYRD #1 (205047)	HAMLIN SOUTH (NOODLE)	20.0	CNOCD INC
FRANK BOYD			RECEIVED:	03/16/84	JA: TX			
8425079	F-7C-078981	4223532161	103		ELTA I MURPHY "A" #4	SPRABERRY (TRENDO AREA)	0.0	EL PASO NATURAL
GERONIMO OIL CO			RECEIVED:	03/16/84	JA: TX			
8424774	F-04-078471	4240931774	103		ORA L SMITH #1-B	MIDWAY (6500)	0.0	HOUSTON PIPE LINE
GLEN A MARTIN			RECEIVED:	03/16/84	JA: TX			
8424972	F-04-078442	4213100000	108		RAMIREZ ESTATE #1	SEJITA (HOCKLEY #1)	0.5	VALLEY GAS TRAN
GRACE PETROLEUM CORPORATION			RECEIVED:	03/16/84	JA: TX			
8425181	F-08-079243	4238931232	108		GRACE-CALEDON-CONNOR #1	SAN MARTINE (MISSISSI)	0.0	WESTAR TRANSMISSI
GULF OIL CORPORATION			RECEIVED:	03/16/84	JA: TX			
8424986	F-08-078586	4247533080	103		ESTES E W #266	WARD-ESTES NORTH	11.2	CABOT CORP
8424973	F-08-078444	4200331682	103		TRIPLE-N GRAYBURG CONS #B-7-K	TRIPLE-N (GRAYBURG)	0.0	PHILLIPS PETROLEU
8424934	F-08-078446	4200333081	103		TRIPLE-N GRAYBURG CONS #B-8-O	TRIPLE-N (GRAYBURG)	0.0	PHILLIPS PETROLEU
H & L OPERATING COMPANY			RECEIVED:	03/16/84	JA: TX			
8425038	F-10-075015	4235731453	102-4		HOCKING "B" #5-31 RRC LEASE #05568	BOOKER W (MORROW UPPE)	150.0	NORTHERN GAS PR
8425032	F-10-078813	4229531389	102-4		SELL #5-30 (RRC LEASE NO 04891)	BOOKER N (MORROW UPPE)	73.0	NORTHERN GAS PR
8425031	F-10-078812	4220831388	102-4		SELL #6-30 (RRC LEASE NO 04891)	BOOKER W (MORROW UPPE)	144.0	NORTHERN GAS PROD
H G SLEDGE			RECEIVED:	03/16/84	JA: TX			
8424983	F-7B-078606	4213355149	102-4		JAN-SAN "21" #4 (19031)	REB (MARBLE FALLS)	10.0	LONE STAR GAS CO
HARRIS R FENDER			RECEIVED:	03/16/84	JA: TX			
8424994	F-078663	4242350723	102-4		FENDER FEE "A" #1	DRISKELL LAKE (RODESS)	400.0	LONE STAR GAS CO
8424993	F-06-078662	4242330758	102-4		SUZETTE D'AYSON SHELMIER "A" #1	DRISKELL LAKE (RODESS)	38.0	LONE STAR GAS CO
HEWITT & DOUGHERTY			RECEIVED:	03/16/84	JA: TX			
8425036	F-04-078841	4239100000	107-PE		K D ROCHE "E" #9 ID NO 078578	ENCINO 6400' SAND	91.2	LONE STAR GAS CO
HILL PRODUCTION CO-WISCONSIN			RECEIVED:	03/16/84	JA: TX			
8424891	F-03-079059	4233930609	102-4		R V KING #1	LAKE CREEK	0.0	TEJAS-SOUTHWESTIF
HILLCO PETROLEUM INC			RECEIVED:	03/16/84	JA: TX			
8425073	F-7B-078492	4242933730	102-4		COPELAND-MITCHELL "A" #1 (20566)	C-M (CUFFER)	36.0	DAMSON GAS PROCS
HRUBETZ OIL CO			RECEIVED:	03/16/84	JA: TX			
8425039	F-7B-078842	4208333863	102-4		R C DAVIS #9	HRUBETZ (ELLEN)	8.3	UNION TEXAS PETRO
HUNT OIL COMPANY			RECEIVED:	03/16/84	JA: TX			
8425151	F-7B-079135	4208333853	103		A R NEFF #7	GAYLE	15.0	SOUTHWESTERN GAS
JAMES K ANDERSON INC			RECEIVED:	03/16/84	JA: TX			
8424962	F-7C-078342	4239932800	102-4		MIKESKA #3	WINGATE NW (GRAY)	60.0	LONE STAR GAS CO
JET OIL COMPANY			RECEIVED:	03/16/84	JA: TX			
8424997	F-10-078690	4229531308	103		BOON #1-110	FRASS (TONKAWA)	9.0	PHILLIPS PETROLEU
KERR-MCGEE CORPORATION			RECEIVED:	03/16/84	JA: TX			
8424927	F-10-078184	4223330779	108		PITTS #100	PANHANDLE (HUTCHINSON)	5.7	GETTY OIL CO
8424934	F-10-078233	4223335774	108		PITTS #104	PANHANDLE (HUTCHINSON)	2.5	GETTY OIL CO
8424932	F-10-078230	4223330806	108		PITTS #107	PANHANDLE (HUTCHINSON)	1.6	GETTY OIL CO
8424939	F-10-078241	4223330833	108		PITTS #110	PANHANDLE (HUTCHINSON)	1.9	GETTY OIL CO
8424936	F-10-078235	4223330834	108		PITTS #111	PANHANDLE (HUTCHINSON)	4.5	GETTY OIL CO
8424925	F-10-078187	4223330835	108		PITTS #112	PANHANDLE (HUTCHINSON)	1.9	GETTY OIL CO
8424938	F-10-078238	4223330836	108		PITTS #113	PANHANDLE (HUTCHINSON)	1.3	GETTY OIL CO
8424930	F-10-078049	4223330000	108		PITTS #23	PANHANDLE (HUTCHINSON)	2.5	GETTY OIL CO
8424984	F-10-077993	4223330000	108		PITTS #36	PANHANDLE (HUTCHINSON)	2.6	GETTY OIL CO
8424910	F-10-078168	4223330000	108		PITTS #39	PANHANDLE (HUTCHINSON)	6.8	GETTY OIL CO
8424914	F-10-078174	4223330000	108		PITTS #40	PANHANDLE (HUTCHINSON)	2.0	GETTY OIL CO
8424917	F-10-078179	4223330000	108		PITTS #43	PANHANDLE (HUTCHINSON)	2.0	GETTY OIL CO
8424911	F-10-078169	4223330000	108		PITTS #47	PANHANDLE (HUTCHINSON)	1.0	GETTY OIL CO
8424905	F-10-078157	4223330000	108		PITTS #51	PANHANDLE (HUTCHINSON)	2.7	GETTY OIL CO
8424909	F-10-078167	4223330000	108		PITTS #53	PANHANDLE (HUTCHINSON)	0.3	GETTY OIL CO
8424913	F-10-078173	4223330000	108		PITTS #56	PANHANDLE (HUTCHINSON)	0.6	GETTY OIL CO
8424908	F-10-078165	4223330000	108		PITTS #58	PANHANDLE (HUTCHINSON)	0.6	GETTY OIL CO
8424922	F-10-078193	4223330000	108		PITTS #61	PANHANDLE (HUTCHINSON)	3.0	GETTY OIL CO
8424912	F-10-078171	4223330000	108		PITTS #62	PANHANDLE (HUTCHINSON)	5.9	GETTY OIL CO
8424904	F-10-078156	4223330000	108		PITTS #64	PANHANDLE (HUTCHINSON)	3.0	GETTY OIL CO
8424906	F-10-078161	4223330000	108		PITTS #67	PANHANDLE (HUTCHINSON)	4.0	GETTY OIL CO
8424907	F-10-078163	4223330000	108		PITTS #70	PANHANDLE (HUTCHINSON)	0.5	GETTY OIL CO
8424926	F-10-078186	4223330000	108		PITTS #71	PANHANDLE (HUTCHINSON)	1.5	GETTY OIL CO
8424921	F-10-078194	4223330000	108		PITTS #73	PANHANDLE (HUTCHINSON)	4.0	GETTY OIL CO
8424920	F-10-078195	4223330000	108		PITTS #74	PANHANDLE (HUTCHINSON)	0.5	GETTY OIL CO
8424915	F-10-078177	4223330000	108		PITTS #77	PANHANDLE (HUTCHINSON)	1.2	GETTY OIL CO
8424923	F-10-078192	4223330000	108		PITTS #79	PANHANDLE (HUTCHINSON)	0.7	GETTY OIL CO
8424924	F-10-078190	4223330000	108		PITTS #80	PANHANDLE (HUTCHINSON)	1.0	GETTY OIL CO
8424937	F-10-078237	4223330713	108		PITTS #83	PANHANDLE (HUTCHINSON)	3.0	GETTY OIL CO
8424918	F-10-078180	4223330711	108		PITTS #84	PANHANDLE (HUTCHINSON)	3.3	GETTY OIL CO
8424941	F-10-078243	4223330750	108		PITTS #85	PANHANDLE (HUTCHINSON)	1.3	GETTY OIL CO
8424933	F-10-078231	4223330751	108		PITTS #86	PANHANDLE (HUTCHINSON)	1.3	GETTY OIL CO
8424928	F-10-078183	4223330752	108		PITTS #87	PANHANDLE (HUTCHINSON)	5.0	GETTY OIL CO
8424940	F-10-078242	4223330760	108		PITTS #88	PANHANDLE (HUTCHINSON)	0.6	GETTY OIL CO
8424931	F-10-078229	4223330763	108		PITTS #89	PANHANDLE (HUTCHINSON)	4.5	GETTY OIL CO
8424930	F-10-078228	4223330761	108		PITTS #91	PANHANDLE (HUTCHINSON)	1.9	GETTY OIL CO
8424916	F-10-078178	4223330770	108		PITTS #96	PANHANDLE (HUTCHINSON)	1.6	GETTY OIL CO
8424951	F-10-078293	4223330772	108		PITTS #98	PANHANDLE (HUTCHINSON)	1.7	GETTY OIL CO
8424935	F-10-078234	4223330775	108		PITTS #105	PANHANDLE (HUTCHINSON)		
KIMBLE PRODUCTION CO			RECEIVED:	03/16/84	JA: TX			
8424889	F-03-078047	4247730474	102-4		CLAY GAS UNIT #2 - 104529	NE CLAY (GEORGETOWN)	300.0	CLAYON GAS CO
L & B OIL CO INC			RECEIVED:	03/16/84	JA: TX			
8424981	F-03-078530	4204131059	102-4		COBB UNIT 4 WELL #1	IOLA SOUTH (SUB-CLARK)	160.0	PRODUCER'S GAS CO
LACY & BYRD INC			RECEIVED:	03/16/84	JA: TX			
8424958	F-08-078316	4232931224	103		MCKANDLES #1 (RRC #28562)	PARKS (PENNSYLVANIAN)	13.0	MOBIL PRODUCING
LADD PETROLEUM CORPORATION			RECEIVED:	03/16/84	JA: TX			
8424944	F-7C-078258	4210534632	103		TF W 1 PIERCE #9-3	OZONA (CANYON SAND)	147.8	AMERICAN PIPELINE
LAYTON ENTERPRISES INC			RECEIVED:	03/16/84	JA: TX			
8424950	F-8A-078281	4207931645	103		REED WRIGHT #E-2	LEVELLAND	8.9	CITIES SERVICE CO
LEAR OIL & GAS INC			RECEIVED:	03/16/84	JA: TX			
8425078	F-10-078979	4217931478	103		SANDRA (05595) #1	PANHANDLE GRAY COUNTY	77.0	CABOT PIPELINE CO
LEONARD RESOURCES			RECEIVED:	03/16/84	JA: TX			
8424900	F-7B-078112	4241735306	103		SAM CANNON #4	MORAN EAST (3800')	36.5	LONE STAR GAS CO
M BRAD BENNETT INC & RKH LTD			RECEIVED:	03/16/84	JA: TX			
8425023	F-08-078789	4247533118	102-4		MORIL "A" #2	COLLIE (DELAWARE)	54.7	COLONY GATHERING
8425022	F-08-078788	4247533120	102-4		SHELL #2	COLLIE (DELAWARE)	9.1	COLONY GATHERING
M G & H OPERATORS			RECEIVED:	03/16/84	JA: TX			
8424779	F-08-078492	4237100000	108		CONRY DAVIS GRAHAM	ABELL (PERMIAN) 3800	18.8	NORTHERN GAS PROD
MARALO INC			RECEIVED:	03/16/84	JA: TX			
8425061	F-08-078888	4200333704	103		SHELL-PERKINS #1	DEEP ROCK (PENN)	45.6	PHILLIPS PETROLEU
MARATHON OIL COMPANY			RECEIVED:	03/16/84	JA: TX			
8425037	F-03-078830	4232131348	103		OHIO-SUN UNIT #12-K	NORTH MARKHAM-NORTH B	151.0	TRANSCONTINENTAL
MARTINAS OPERATING CO INC			RECEIVED:	03/16/84	JA: TX			
8424945	F-7B-078260	4208333810	102-4		BATES #1 (108551)	CRESCENT MOON (GARDNE)	107.0	UNION TEXAS PETRO
MARSHALL R YOUNG OIL CO			RECEIVED:	03/16/84	JA: TX			

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8425082	F-8A-078986	4250132231	102-4		WILMA JOHNSON #1	JANICE (WOLFCAVE)	0.0	WARREN PETROLEUM
8425081	F-8A-078985	4250132325	102-4		WILMA JOHNSON #1	JANICE (WOLFCAVE)	985.5	WARREN PETROLEUM
8425185	F-7B-079259	4236332058	103		BEAN #2	MINERAL WELLS 5 (WHIT)	14.6	TEXAS UTILITIES F
8424899	F-09-078079	4207733256	102-4		WYNN #3 RRC LEASE ID #23021	TALLEY (CONGL)	1000.0	TUFCO
8425012	F-06-078748	4245930591	103	107	TF ROGEL GAS UNIT #1 WELL #2	ROSEWOOD (COITON VALL	720.0	WESTERN GAS CORP
8425034	F-7B-078821	4205933052	102-4		LANDERS #1-A	TURNAROUND (GRAY SAND	20.0	LOME STAR GAS CO
8424960	F-02-078338	4202532064	103		IMOGENE HALL UNIT #2	TULETA WEST (2800)	0.0	HPI TRANSMISSION
8424961	F-02-078339	4202532064	103		IMOGENE HALL UNIT #2-U	TULETA WEST (VICKSBUR	0.0	HPI TRANSMISSION
8424953	F-03-078299	4232100000	108		B B CLARDY #1 051248	PALACIOS (FRIO -C-)	0.0	FLORIDA GAS TRANS
8424952	F-09-078296	4223700000	108		C T SOUTHERLAND #2 083444	BOONSVILLE (BEND CONG	0.3	CORONADO TRANSMIS
8424954	F-09-078300	4249700000	108		FLAVIS GREER #3 17350	MORRIS (CONS CONGL)	0.0	NATURAL GAS PIPEL
8424977	F-09-078484	4223700000	103		M H MCCONNELL "B" #2 22882	SOUTHWESTERN (CADD O	3.7	
8424982	F-09-078549	4249700000	108		MAEYERS-JANUARY #1 092053	BOYD N (STRAWN 4200)	0.0	NATURAL GAS PIPEL
8424955	F-09-078302	4249700000	108		R M THOMPSON #1 029211	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8425173	F-7B-079216	4249332558	108		J F BROWN #17	STEPHENS COUNTY REGUL	4.1	WARREN PETROLEUM
8425209	F-08-079313	4230130465	102-4		LACY ET AL B #3	DIMMIT (CHERRY CANYON	21.0	INTRATEX GAS CO
8425210	F-08-079344	4221934119	103		NORTH CENTRAL LEVELLAND UNIT #398	LEVELLAND	1.5	AMOCO PRODUCTION
8424990	F-8A-078623	4221934103	103		NORTH CENTRAL LEVELLAND UNIT #404	LEVELLAND	3.0	AMOCO PRODUCTION
8425208	F-8A-079341	4221934106	103		NORTH CENTRAL LEVELLAND UNIT #407	LEVELLAND	6.0	AMOCO PRODUCTION
8425174	F-08-079217	4210332638	108		P J LEA B #16	SAND HILLS (MCKNIGHT)	5.2	WARREN PETROLEUM
8424992	F-08-078661	4232931200	103		PARKS (FUSSELMAN)	PARKS (FUSSELMAN)	30.0	EL PASO NATURAL G
8425025	F-08-078797	4210332638	103		SAND HILLS TUBB UNIT #55	SAND HILLS (TUBB)	19.0	WARREN PETROLEUM
8425175	F-08-079218	4247530551	108		WEST CAPRITO UNIT NO 2 #2	CAPRITO (ELLENBURGER)	10.3	LOME STAR GAS CO
8425116	F-8A-079072	4250132507	103		SANLEY #10	WASSON	15.0	SHELL OIL CO
8425075	F-03-078958	4229131569	102-4		DANIEL #1	DEVERS (YEGUA 11400)	0.0	
8424975	F-09-078470	4233700000	102-4		HELEN HANKINS 1-A	OIL CREEK (CADD O LIME	8.0	TEXAS UTILITIES F
8425090	F-10-079027	4206531536	103		RCSA #3 (ID# 05603)	PANHANDLE CARSON	42.0	CABOT PIPELINE CO
8424971	F-08-078428	4249531644	103		COWDEN #2	HALLEY	0.0	CARDT PIPELINE CO
8424942	F-08-078245	4249531604	103		WHEELER #1	WHEELER (ELLENBURGER)	0.0	SHELL OIL CO
8425058	F-8A-078881	4250131933	103		BOHEN ET AL #1 (SAN ANDRES)	JANICE (SAN ANDRES)	0.0	WARREN PETROLEUM
8425119	F-06-079075	4231361910	102-4		HAROLD HOFFMAN #1	ASOG (7100 YEGUA)	109.0	AMERICAN PIPELINE
8425084	F-08-079011	4249531352	108		MCCABE F P #56 (21555)	HALLEY	0.0	EL PASO NATURAL G
8425182	F-7C-079249	4246132056	103		M PENSROCK S U #21-02 (03913)	SIRABERRY (TEND AREA	4.0	NORTHERN NATURAL
8425070	F-10-078911	4217900000	108		RAILEY C #2	PANHANDLE GRAY	0.0	
8425068	F-10-078909	4217900000	108		RAILEY C #3	PANHANDLE EAST	0.0	
8425069	F-10-078910	4217900000	108		RAILEY C #4	PANHANDLE EAST	0.0	
8425067	F-10-078908	4217900000	108		RAILEY C #5	PANHANDLE EAST	0.0	
8425083	F-08-079012	4213502431	103		G S ANDRETTOR U K-06 (21193)	GOLDSMITH (CLEARFORK)	18.0	EL PASO NATURAL G
8425086	F-08-079013	4213502678	108		G S ANDRETTOR U K-L-09 (21193)	GOLDSMITH (CLEARFORK)	18.0	EL PASO NATURAL G
8424970	F-02-078393	4223931941	102-4		VELMA ROBINSON #2	COLLIER N (4095) (PRO	182.5	HOUSTON PIPE LINE
8425083	F-03-078792	4207131406	103		CHARLES G EZER #1	JACKSON PASTURE E (FB	16.0	AMOCO GAS CO
8425172	F-02-079212	4246932114	102-4		MILDRED BOOTHE UNIT #1	CLASP (WILCOX)	366.0	REATA INDUSTRIAL
8424924	F-7C-078567	4223532187	102-2	103	FARMAR-SUGG #11	LUCKY-MAG (CLEAR FORK	0.0	FARMLAND INDUSTRI
8424983	F-7C-078566	4223532229	102-2	103	FARMAR-SUGG #21 #4	LUCKY-MAG (CLEAR FORK	0.0	FARMLAND INDUSTRI
8424903	F-09-078154	4225735560	102-4		M J HOUSE #1	GARY-MAG W (CONGL)	25.0	LOME STAR GAS CO
8424957	F-7B-078315	4225332426	102-4		BENNETT "A" #2	COTTONWOOD ANNIE (BLU	11.0	LOME STAR GAS CO
8424956	F-7B-078314	4225332470	102-4		BENNETT "A" #3	COTTONWOOD ANNIE (BLU	11.0	LOME STAR GAS CO
8424884	F-7B-077973	4213335492	102-4		J B GREER "A" #1	REB	29.0	ENSERCH EXPLORATI
8424946	F-7B-078265	4213335461	102-4		JOHNSTON "A" #1	REB	75.0	ENSERCH EXPLORATI
8424947	F-7B-078266	4213335483	102-4		JOHNSTON "A" #1	REB	69.0	ENSERCH EXPLORATI
8425000	F-7B-078273	4208300000	103		OSCAR GOULD #1	COLEMAN COUNTY REGULA	0.0	SOUTHWESTERN GAS
8425016	F-03-078827	4203931882	102-4		IP FARMS #1-L	CHOCOLATE BAYOU SOUTH	1800.0	AMOCO GAS CO
8425035	F-03-078822	4203931882	102-4		IP FARMS #1-U	CHOCOLATE BAYOU SOUTH	1800.0	AMOCO GAS CO
8425164	F-7C-079183	4210534650	103		OZONA DEVELOPMENT 7 #3 RRC #10421	FARMER (SAN ANDRES)	1.3	NORTHERN NATURAL
8425163	F-7C-079182	4238332823	103		PHILLIPS STATE #4 RRC #10149	FARMER (SAN ANDRES)	0.9	NORTHERN NATURAL
8425162	F-7C-079181	4210534665	103		SUPERIOR STATE 14 #5 RRC #09923	FARMER (SAN ANDRES)	1.3	NORTHERN NATURAL
8425176	F-7C-079221	4210534667	103		UNIVERSITY 23-C #6 RRC #09620	FARMER (SAN ANDRES)	1.4	NORTHERN NATURAL
8425057	F-03-078879	4228731501	103		MEMEL UNIT 2	GIDDINGS (AUSTIN CHAL	50.0	PERRY PIPELINE CO
8425056	F-03-078874	4214931559	103		WEISHUHN #1	GIDDINGS AUSTIN CHALK	73.0	PERRY PIPELINE CO
8424195	F-7C-079296	4210534490	103		SHANNON ESTATE "1" WELL #3	ESCONDIDO S (STRAWN L	600.0	PHILLIPS PETROLEU
8425123	F-7C-079080	4208100000	108		BLOODWORTH NE CANYON UNIT #8-6	BLOODWORTH NORTHEAST	3.0	EL PASO NATURAL G
8425093	F-08-079036	4249530000	103		BROWN-ALTMAN AC 4A #1	EMPEROR	8.0	CABOT CORP
8425142	F-7C-079116	4208100000	108		CENTRAL NATIONAL BANK #13	LYGAY	7.0	LOME STAR GAS CO
8425141	F-7C-079115	4208100000	108		CENTRAL NATIONAL BANK #15	LYGAY	8.0	LOME STAR GAS CO
8425137	F-7C-079097	4208100000	108		CENTRAL NATIONAL BANK #17	LYGAY	7.0	LOME STAR GAS CO
8425136	F-7C-079096	4208100000	108		CENTRAL NATIONAL BANK #18	LYGAY	13.0	LOME STAR GAS CO
8425078	F-04-079043	4242700000	108		CENTRAL NATIONAL BANK #19	LYGAY	13.0	LOME STAR GAS CO
8425130	F-03-079087	4207100000	108		D D OIL CO "B" #9	RINCON NORTH	6.0	TRANSCONTINENTAL
8425020	F-09-078761	4227531417	102-4		FANT ESTATE "2" #4	WILLOW SLOUGH	16.0	UNITED TEXAS TRAN
8425017	F-09-078758	4227531431	102-4		FANT ESTATE "2" #5	FANT	8.0	SUN GAS TRANSMISS
8425016	F-09-078757	4227531375	102-4		FANT ESTATE "2A" #4	FANT	8.0	SUN GAS TRANSMISS
8425019	F-08-078760	4213500000	108		FOSTER-JOHNSON UNIT #12-5	FOSTER	8.0	SUN GAS TRANSMISS
8425132	F-08-079099	4213500000	108		FOSTER-JOHNSON UNIT #16-5	FOSTER	0.4	EL PASO HYDRO CAR

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JD NO	JA DKT	API NO	D SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8425018	F-08-078759	4213500000	108	FOSTER-JOHNSON UNIT #7-12	FOSTER	0.2	EL PASO HYDRO CAR
8425013	F-08-078751	4213500000	108	FOSTER-JOHNSON UNIT #7-15	FOSTER	0.6	EL PASO HYDROCARB
8425166	F-04-079120	4242700000	108	GEORGE H SPEER #31	SUN	19.0	FLORIDA GAS TRANS
8425121	F-7B-079077	4220700000	108	HASKELL SOJOURNER UNIT #19	SOJOURNER	1.0	CITIES SERVICE
8425096	F-08-079043	4243100000	108	J F ELLWOOD #1	ROSE CREEK	1.0	
8425129	F-04-079086	4242700000	108	J G DE GARCIA #2	GARCIA	11.0	TRANSCONTINENTAL
8425097	F-7B-079042	4242900000	108	J G DUNLAP #3	VEALE	3.0	SOUTHWESTERN GAS
8425131	F-03-079059	4207100000	108	MECKELBURG #1	FIG RIDGE	12.0	UNITED TEXAS TRAN
8425133	F-08-079091	4200333701	103	NELLIE C MARTINS #16	MARTIN (TUBB)	55.0	PHILLIPS PETROLEU
8425101	F-7B-079046	4213300000	108	NORTH CENTRAL RANGER UNIT #5-25	EASTLAND COUNTY REGUL	0.0	
8425099	F-7B-079046	4213300000	108	NORTH CENTRAL RANGER UNIT #5-30	EASTLAND COUNTY REGUL	0.0	
8425100	F-7B-079045	4213300000	108	NORTH CENTRAL RANGER UNIT #6-35	EASTLAND COUNTY REGUL	0.0	
8425014	F-08-078752	4213500000	108	NORTH LAWSON UNIT #5-2	LAWSON	0.6	PHILLIPS PETROLEU
8425124	F-7B-079081	4213300000	108	NORTHWEST RANGER UNIT #24-3	EASTLAND COUNTY REGUL	31.0	
8425095	F-7B-079038	4213300000	108	NORTHWEST RANGER UNIT #26-5	EASTLAND COUNTY REGUL	0.0	
8425094	F-7B-079037	4213300000	108	NORTHWEST RANGER UNIT #38-4	EASTLAND COUNTY REGUL	0.0	
8425127	F-7B-079084	4213300000	108	NORTHWEST RANGER UNIT #6-1	EASTLAND COUNTY REGUL	1.0	LONE STAR GAS CO
8425147	F-09-079114	4242700000	108	O J APPLING #2	BOONSVILLE	6.0	NATURAL GAS PIPEL
8425125	F-7B-079082	4213300000	108	P O HARRIS #1	EASTLAND COUNTY REGUL	0.9	
8425015	F-04-078756	4235531416	102-4	RANGER MCCLESKY SAND UNIT #25	RANGER	0.4	
8425144	F-7C-079118	4208100000	108	RICHARD KING #1-36	BAILEY	10.0	DELHI GAS PIPELIN
8425128	F-04-079085	4224900000	108	SAM B SAVAGE #2	LYGAY	6.0	LONE STAR GAS CO
8425134	F-8A-079092	4221900000	108	SEELIGSON UNIT #1-113	SEELIGSON	2.0	TENNESSEE GAS PIP
8425145	F-08-079119	4235500000	108	SOUTHEAST LEVELLAND UNIT #273	LEVELLAND	0.2	AMOCO PRODUCTION
8425135	F-08-079094	4235500000	108	V T MCCABE "A" #16	JAMESON NORTH	4.0	
8425126	F-7B-079083	4242900000	108	V T MCCABE "D" #9	JAMESON N	1.0	
8425148	F-7B-079123	4242900000	108	W ELIASVILLE CADDO UNIT #20	STEPHENS COUNTY REGUL	0.3	
8425148	F-7B-079123	4242900000	108	W ELIASVILLE CADDO UNIT #7	STEPHENS COUNTY REGUL	3.0	
8425122	F-7B-079078	4242900000	108	W ELIASVILLE CADDO UNIT #8	STEPHENS COUNTY REGUL	0.3	
8425120	F-09-079076	4227500000	108	WARD MARIE MCCADDIN "A" #14	LITTLE GIANT	0.4	
-SUN-KEY OIL CO INC				RECEIVED: 03/16/84	JA: TX		
8424919	F-7B-078214	4214300000	102-4	MOSS #2	JAY-JAY (2050)	0.0	CHRISTIE GAS TRAN
-SUPERIOR OIL CO				RECEIVED: 03/16/84	JA: TX		
8425077	F-08-078975	4247532974	102-4 103	CARSON STATE #4	COLITE (DELAWARE)	37.0	INTRATEX GAS CO
8425188	F-03-079267	4214931851	102-2	X B STERNHILL #1	GIDDINGS (AUSTIN CHAL	182.0	PHILLIPS PETROLEU
-LAURET & STEED				RECEIVED: 03/16/84	JA: TX		
8425178	F-06-079237	4249933133	102-4	FENIX #1-T	NEUNDIFF (BUDA)	101.0	UNITED GAS PIPEL
-TAYLOR OPERATING COMPANY				RECEIVED: 03/16/84	JA: TX		
8425108	F-09-079064	4250300000	102-4	LOVING RANCH #2 (20444)	OLIVER LOVING (MISS)	16.4	SOUTHWESTERN GAS
8425107	F-09-079063	4250300000	102-4	LOVING RANCH #3 (20444)	OLIVER LOVING (MISS)	16.4	SOUTHWESTERN GAS
8425106	F-09-079062	4250300000	102-4	LOVING RANCH #4 (20444)	OLIVER LOVING (MISS)	16.4	SOUTHWESTERN GAS
-TENNECO OIL COMPANY				RECEIVED: 03/16/84	JA: TX		
8425076	F-08-078973	4247532870	103	C O AVARY 132-2	RHODA WALKER (CANYON	0.0	CLAJON GAS CO
8425186	F-10-079265	4217931410	103	COMBS #174	PANHANDLE GRAY	0.5	PHILLIPS PETROLEU
-TERRELL OPERATING CO				RECEIVED: 03/16/84	JA: TX		
8425001	F-7B-078725	4225332614	102-2	J E MCCOY JR #1 - RRC #20261	HAMLIN SOUTH (NOODLE	3.0	CONOCO INC
-TEXACO INC				RECEIVED: 03/16/84	JA: TX		
8425063	F-8A-078904	4250100000	108	ROBERTS UNIT #3246	WASSON	3.0	SHELL OIL CO
8424981	F-7C-078146	4210500000	103	STATE OF TEXAS "CQ" #6	WEGER NORTH	0.0	
-HOMERSON J CLEO & JAMES CLEO JR				RECEIVED: 03/16/84	JA: TX		
8424885	F-7C-077988	4241331360	103	107-TF ROUSSELOTT #6	OZONA NE (CANYON 7520	90.0	PHILLIPS PETROLEU
-TOM BROWN INC				RECEIVED: 03/16/84	JA: TX		
8424998	F-08-078697	4243533080	103	HOLI RANCH "B" #1	SPRABERRY (TREND AREA	0.0	NORTHERN GAS
-TORTUGA OPERATING CO				RECEIVED: 03/16/84	JA: TX		
8425003	F-03-078735	4220131484	103	FARIS GAS UNIT #1	TOMBALL (COCKFIELD UP	100.0	NATURAL GAS PIPEL
-TRIANGLE ENERGY CO				RECEIVED: 03/16/84	JA: TX		
8425080	F-09078982	4207233032	103	ANDY (23558) #1	HENRIETTA E (VIOLA)	266.0	FAGADAU ENERGY CO
-TRIPLE J INVESTMENTS INC				RECEIVED: 03/16/84	JA: TX		
8424969	F-04-078380	4220300000	103	MATTIE MERCER #2	MCKAY (PETIT)	360.0	UNITED GAS PIPEL
-TRM ENERGY CO				RECEIVED: 03/16/84	JA: TX		
8424968	F-7B-078273	4236732491	102-4	FINCH #1	H & R (BEND CONGL)	182.0	TEXAS UTILITIES I
-Troxell Oil & Gas				RECEIVED: 03/16/84	JA: TX		
8425030	F-10-078806	4248300000	108	HALL J A NCT-3 #1	PANHANDLE (OSBORNE AR	14.6	RAEL GAS CO
8425029	F-10-078805	4248300000	108	HALL J A NCT-3 #2	PANHANDLE (OSBORNE AR	14.6	RAEL GAS CO
8425028	F-10-078804	4248300000	108	HALL J A NCT-3 #3	PANHANDLE (OSBORNE AR	14.6	RAEL GAS CO
8425027	F-10-078803	4248300000	108	HALL J A NCT-3 #4	PANHANDLE (OSBORNE AR	14.6	RAEL GAS CO
8425033	F-10-078814	4248300000	108	HALL J A NCT-3 #5	PANHANDLE (OSBORNE AR	14.6	RAEL GAS CO
-TXO PRODUCTION CORP				RECEIVED: 03/16/84	JA: TX		
8424978	F-10-078846	4235700000	102-4	GRAMSTORFF #5	BOOKER N (MORROW UPPE	180.0	DELHI GAS PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED: 03/16/84	JA: TX		
8425184	F-7C-079255	4225332131	102-2 103	SUGG "7" #1	ANDREW A (CANYON)	210.0	FARMLAND INDUSTRI
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED: 03/16/84	JA: TX		
8425159	F-08-079168	4210333302	103	J B TUBB "A" (TR B) #46	SAND HILLS (MCKNIGHT)	225.9	EL PASO NATURAL G
8425160	F-03-079167	4210333300	103	J B TUBB "A" (TR B) #48	SAND HILLS (MCKNIGHT)	75.1	EL PASO NATURAL G
8425155	F-08-079162	4210333265	103	M B MCKNIGHT #152	SAND HILLS (MCKNIGHT)	177.2	EL PASO NATURAL G
8425157	F-08-079164	4210333336	103	P J LEA ETAL (TR B) #171	LEA (SAN ANDRES)	14.3	EL PASO NATURAL G
8425158	F-08-079165	4210333340	103	P J LEA ETAL (TR B) #193	LEA (SAN ANDRES)	24.5	EL PASO NATURAL G
8425156	F-08-079163	4210333321	103	P J LEA ETAL (TR G) #162	LEA (SAN ANDRES)	38.2	EL PASO NATURAL G
-WCS PETROLEUM CO				RECEIVED: 03/16/84	JA: TX		
8424888	F-03-078039	4228731504	102-2	WESTBROOK #1-A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-WILBROOK EXPLORATION INC				RECEIVED: 03/16/84	JA: TX		
8425021	F-7B-078770	4242933628	102-4	S&E REAL ESTATE #2	NEELY (BEND CONGL)	160.0	SOUTHWESTERN GAS
-WILLIAMS PETROLEUM CO				RECEIVED: 03/16/84	JA: TX		
8425177	F-7B-079236	4236300000	103	B R A #4	B R A (CONGLMERATE)	500.0	TEXAS UTILITIES I
-3-M ENERGY CORP				RECEIVED: 03/16/84	JA: TX		
8425072	F-7C-078922	4238332743	103	SADIE WEDDELL #1	SPRABERRY (TREND AREA	18.3	PHILLIPS PETROLEU
8425071	F-7C-078921	4238332746	103	WEDDELL-PAULEY "20" #1	SPRABERRY (TREND AREA	18.3	PHILLIPS PETROLEU

[FR Doc. 84-0710 Filed 4-10-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1101]

NGPA Notices of Determination by Jurisdictional Agencies

Issued: April 6, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83-50-000, 49 FR 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, will not be published in the Federal Register. Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR

274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703)487-4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New res. on old OCS lease

Section 103: New onshore production well

Section 107-DP: 15,000 ft or deeper
107-CB: Geopressed brine
107-DV: Devonian shale
107-CS: Coal seam gas
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Temporary pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

VOLUME 1101

ISSUED: APRIL 6, 1984

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION								
8425227	84-0305	1701320535	107-TF		J F BOYET #1 CV RA SU A	WEST RINGGOLD	657.0	UNITED GAS PIPEL
8425228	84-0306	1703121518	107-TF		J F GUY #1	CASPIANA	730.0	UNITED GAS PIPEL
8425245	84-0308	1711321264	107-EP		STATE LEASE 4011 #11	REDFISH POINT	1204.5	FLORIDA GAS TRAN
CALLON PETROLEUM COMPANY								
8425225	83-0147	1706320677	102-4		A H THOM #1 1ST LX RA SUJ	LOCKHART CROSSING (WI	846.0	SOUTHERN NATURAL
8425238	83-0421	1706320909	102-4		CROWN ZELLERBACH #1 1ST LX RA SUI	LOCKHART CROSSING (WI	105.0	LOUISIANA INTRAST
8425223	83-0191	1706320083	102-4		GAUSIN INC #2 WELL 1ST LX RA SUE	LOCKHART CROSSING (WI	84.0	SOUTHERN NATURAL
8425243	83-0146	1706320030	102-4		GAUDIN INC #1 1ST LX RA SUE	LOCKHART CROSSING (WI	112.0	SOUTHERN NATURAL
8425246	83-0417	1706320087	102-4		I P CO #1 1ST LX RA SUN	LOCKHART CROSSING (WI	63.0	SOUTHERN NATURAL
8425237	83-0418	1706320089	102-4		I P CO #2 1ST LX RA SUN	LOCKHART CROSSING	43.0	SOUTHERN NATURAL
8425232	83-0192	1706320081	102-4		J J BARNETT #1	LOCKHART CROSSING (WI	50.0	SOUTHERN NATURAL
8425234	83-0199	1706320082	102-4		STATE LEASE 7729 #1 1ST LX RA SUC	LOCKHART CROSSING (WI	92.0	SOUTHERN NATURAL
ENERGY RESERVES GROUP INC								
8425246	84-0309	1700100265	107-PE		JONN HILFERT #1	NORTH TEPETATE	120.0	LOUISIANA GAS SYS
8425244	84-0301	1700100267	107-TE		M S REMAIN #1 HOMESSEEKER "B" SU G	NORTH TEPETATE	399.0	LOUISIANA GAS SYS
EXXON CORPORATION								
8425235	83-0351	1711220172	102-4		SL 799 #B-3	GRAND ISLE BLOCK 16	1750.0	COLUMBIA GAS TRAN
HEPD PRODUCING COMPANY INC								
8425241	84-0316	1702721152	103		JUSTICES #1 U SPX A RA SUJ	OAKS	93.6	LOUISIANA GAS INT
HOGAN EXPLORATION INC								
8425242	84-0315	1712721407	103		MANNVILLE P #1	NORTH HICKORY VALLEY	30.0	CITY OF MILTON FL
JETTIS BAYOU PRODUCTION CORP								
8425230	84-0310	1703121881	103		107-TF BAILEY #6 JL RA SUF	BENSON	188.0	SOUTHERN NATURAL
8425231	84-0314	1703122130	103		MATTHEWS C S #3	RED RIVER-BULL BAYOU	273.0	LOUISIANA INTRAST
LUFFEY GAS CORP								
8425232	84-0296	1711123931	103		107-TF J V HAYES #1	MONROE	7.2	WEST MONROE GAS G
MARSHALL EXPLORATION INC								
8425239	84-0294	1702721093	103		107-TF WASHINGTON #1 CV RA SUE	MOUNT SINAI	45.0	ARKANSAS LOUISIAN
PLACID OIL COMPANY								
8425229	84-0309	1701320377	107-TF		EDDIEAN #4 VUG	LUCKY	1690.0	TEXAS EASTERN TRA
RABURN OIL & GAS INC								
8425226	84-299	1702721119	102-4		107-TF J B DAVID #2 BS RA SUC	WEST LISBON	28.0	LOUISIANA GAS INT
SHELL OIL CO								
8425240	84-0319	1709920830	103		JLIS CO #91	WEST LAKE VERRET	35.0	UNITED GAS PIPE L
TEXACO INC								
8425207	84-0382	1770720110	103		SL 340 MOUNT POINT #89	MOUND POINT	219.0	KAISER ALUMINUM &
TXO PRODUCTION CORP								
8425234	84-295	1706120360	103		107-TF WESTBROOK "A" #1	RUSTON	1241.0	DELHI GAS PIPELIN
UNILESS INDUSTRIES INC								
8425233	84-298	1711920480	102-4		107-TF CALDWELL #1 UNILESS SPK C RA SUC	EAST DYKESVILLE	335.0	ARKANSAS LOUISIAN
MISSISSIPPI OIL & GAS BOARD								
GULF OIL CORPORATION								
8425211	52-83-11	2307820258	102-4		I H BASS ET AL #83	BAXTERVILLE (UNDEFIN	54.8	UNITED GAS PIPEL I

BILLING CODE 8717-01-M

VOLUME 1101

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION								

MIDLANDS GAS CORPORATION RECEIVED: 03/19/84 JA: MT								
8425221	1-84-3	2507121459	108		1070 COMPTON 1-10	LORING		4.0 K N ENERGY INC

NEW MEXICO DEPARTMENT OF ENERGY & MINERALS								

AMOCO PRODUCTION CO RECEIVED: 03/19/84 JA: NM								
8425316		3004524955	103		ADAMS GAS COM "G" #1	BLOOMFIELD CHACRA	22.0	
8425317		3004524955	103		ADAMS GAS COM "G" #1	AZTEC - PICTURED CLIF	23.0	EL PASO NATURAL G
8425344		3004509630	103		CHRISTIAN GAS COM #1	BASIN DAKOTA	16.0	EL PASO NATURAL C
8425324		3004507705	103		STATE GAS COM "D" #1	BLANCO - MESAVEERDE	15.0	EL PASO NATURAL G
BASIS ENTERPRISES PRODUCTION CO RECEIVED: 03/19/84 JA: NM								
8425345		3002526661	103		AIRSTRIPE STATE #1	AIRSTRIPE	8.0	WARREN PETROLEUM
BTA OIL PRODUCERS RECEIVED: 03/19/84 JA: NM								
8425336		3002528399	103		7903 JV-P ABO #1	DOUBLE A ABO SOUTH	73.0	PHILLIPS PETROLEUM
CHAMPLIN PETROLEUM COMPANY RECEIVED: 03/19/84 JA: NM								
8425321		3000500000	103		SIGNAL STATE #2	CHAVEZ (SAN ANDRES)	27.5	NORTHWEST CENTRAL
CITIES SERVICE OIL & GAS CORP RECEIVED: 03/19/84 JA: NM								
8425323		3002504441	103		STATE AD #1	EUMONT	7.0	NORTHERN NATURAL
8425315		3002528464	103		THOMAS A #5	LANGLIE MATTIX 7 RIVE	102.0	
EL PASO NATURAL GAS COMPANY RECEIVED: 03/19/84 JA: NM								
8425308		3004525812	103		ALLISON UNIT #22A	BLANCO MESAVEERDE	240.0	EL PASO NATURAL G
8425357		3004521098	103-PB		ATLANTIC D COM L #13 PC	BLANCO	0.0	EL PASO NATURAL G
8425356		3004513144	103-PB		FARMINGTON COM B #1	BASIN	0.0	EL PASO NATURAL G
8425338		3004520407	103		HUESFANO UNIT #194	BASIN - DAKOTA	17.0	EL PASO NATURAL G
8425360		3002524506	103-PB		RHODES GSU #20	RHODES	0.0	EL PASO NATURAL G
8425359		3003907047	103-PB		RINCON UNIT #21		0.0	EL PASO NATURAL G
8425310		3003923336	103		SAN JUAN 25-7 UNIT #129E	BASIN DAKOTA	100.0	EL PASO NATURAL G
8425309		3003923337	103		SAN JUAN 28-7 UNIT #165E	BASIN DAKOTA	100.0	EL PASO NATURAL G
8425361		3003900000	103-PB		SAN JUAN 30-6 UNIT #41	BLANCO	0.0	EL PASO NATURAL G
8425313		3003921673	103		SAN JUAN 30-6 UNIT #39A	GOVERNADOR PICTURED C	20.0	EL PASO NATURAL G
8425355		3003907997	103-PB		SAN JUAN 32-5 UNIT #16	BLANCO	0.0	EL PASO NATURAL G
8425358		3004505553	103-PB		THREE STATES A COM #1	BALLARD	0.0	EL PASO NATURAL G
GETTY OIL COMPANY RECEIVED: 03/19/84 JA: NM								
8425339		3002524909	103-PB		A L CHRISTIAN #2	JALMAT (GAS)	23.2	EL PASO NATURAL G
8425332		3002520137	103		STATE "BD" WELL #2	JUSTIS BLINERY-TUBB	14.2	EL PASO NATURAL G
GULF OIL CORPORATION RECEIVED: 03/19/84 JA: NM								
8425318		3002509468	103-PB		MANDA (NCT-C) #1	JALMAT GAS	17.8	NORTHERN NATURAL
JOHN YURONKA RECEIVED: 03/19/84 JA: NM								
8425351		3002527924	103		E F KING #3	JALMAT	115.0	EL PASO NATURAL G
LEWIS B BURLERSON INC RECEIVED: 03/19/84 JA: NM								
8425334		3002500000	103		JAMESON #2	JALMAT OIL FIELD	7.3	EL PASO NATURAL G
8425335		3002500000	103		ROCKET #3	JALMAT OIL FIELD	7.3	EL PASO NATURAL G
MITCHELL ENERGY CORPORATION RECEIVED: 03/19/84 JA: NM								
8425333		3001500000	102-4		FLAG "TD" STATE COM #1 LG-945	UNDESIGNATED TURKEY T	0.0	TRANSWESTERN PIPE
NORTHWEST PIPELINE CORPORATION RECEIVED: 03/19/84 JA: NM								
8425340		3003923129	103		SAN JUAN 30-5 UNIT #5	BASIN DAKOTA	37.3	NORTHWEST PIPELIN
8425307		3003923128	103		SAN JUAN 30-5 UNIT #5	BASIN DAKOTA	88.2	NORTHWEST PIPELIN
8425319		3003907929	103-PB		SAN JUAN 31-6 UNIT 10	BLANCO MESAVEERDE	0.0	NORTHWEST PIPELIN
OOR OPERATING CO INC RECEIVED: 03/19/84 JA: NM								
8425328		3004100000	103		ROOSEVELT STATE #1-9	WILDCAT (FUSSELMAN)	73.0	WARREN PETROLEUM
PHILLIPS OIL CO RECEIVED: 03/19/84 JA: NM								
8425312		3002528310	103		SIMS #10	WANTZ GRANITE WASH	12.0	GETTY OIL CO
PHILLIPS PETROLEUM COMPANY RECEIVED: 03/19/84 JA: NM								
8425341		3002526711	103		CHEN STATE #7	TULK WOLF CAMP	13.0	
8425320		3002502869	103		E VAC CO/SA UNIT TR 2505 #048	VACUUM CO/SA	1.0	EL PASO NATURAL G
8425342		3002523330	103		NEW MEX B #2	MALJAMAR CO/SA	2.0	EL PASO NATURAL G
8425347		3002520790	103		SANTA FE #06	VACUUM GLOFETA	0.0	EL PASO NATURAL G
READ & STEVENS INC RECEIVED: 03/19/84 JA: NM								
8425327		3001524562	103		DARTMOUTH #3	UND BUNKER HILL PENRO	4.0	PHILLIPS PETROLEUM
SINIS OIL CO INC RECEIVED: 03/19/84 JA: NM								
8425354		3004513089	103-PB		COOS #2	AZTEC	0.0	EL PASO NATURAL G
SOUTHLAND ROYALTY CO RECEIVED: 03/19/84 JA: NM								
8425352		3004500000	103-PB		ALBUQUERQUE #1	BLANCO	0.0	EL PASO NATURAL G
8425349		3002521542	103		GRAMM STATE #1	BAGLEY PENN NORTH	5.7	WARREN PETROLEUM
8425353		3004500000	103-PB		HAMPTON #2	AZTEC	0.0	SOUTHERN UNION GA
8425329		3001522343	102-4		PATILLO-STATE COM #2	TURKEY TRACK NORTH	200.0	EL PASO NATURAL G
STEVENS OPERATING CORP RECEIVED: 03/19/84 JA: NM								
8425326		3000562069	103		O'BRIEN "EM" #9	TWIN LAKES - SAN ANDR	1.0	LIQUID ENERGY COR
8425325		3000562070	103		O'BRIEN "EM" #9	TWIN LAKES - SAN ANDR	1.0	LIQUID ENERGY COR
SUN EXPLORATION & PRODUCTION CO RECEIVED: 03/19/84 JA: NM								
8425322		3002528250	103		S R COOPER "A" #3	LANGLIE MATTIX 7 RVRS	39.0	EL PASO NATURAL G
UNION PRODUCING CO RECEIVED: 03/19/84 JA: NM								
8425350		3004525640	103		STATE 16 #2	GALLUP	202.0	EL PASO NATURAL G
8425318		3004525641	103		STATE 16 #3	GALLUP	137.0	EL PASO NATURAL G
8425346		3004525763	103		STATE 16 #4	GALLUP	24.0	EL PASO NATURAL G
UNION TEXAS PETROLEUM RECEIVED: 03/19/84 JA: NM								
8425330		3000520047	103		CROSBY #9	CATO (SAN ANDRES)	12.0	CITIES SERVICES O
W H GALLAGHER RECEIVED: 03/19/84 JA: NM								
8425337		3003922475	103		TRIX #1	BLANCO MESAVEERDE	5.0	NORTHWEST PIPELIN
WARREN PETR CO A DIV OF GULF OIL CO RECEIVED: 03/19/84 JA: NM								
8425331		3002528319	103		LEA "AO" STATE #2	PEST PEARL SAN ANDRES	0.0	EL PASO NATURAL G
8425314		3002528416	103		LEA "VF" STATE #3	SAUNDERS PERMO UPPER	0.0	EL PASO NATURAL G
8425311		3002528303	103		S J SAKKEY #1	WANTZ ABO	0.0	EL PASO NATURAL G
WARRIOR INC RECEIVED: 03/19/84 JA: NM								
8425343		3002526198	103		G M STATE #2	EUMONT-YATES-7 RIVERS	0.0	PHILLIPS PETROLEUM

NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION								

BATH ELECTRIC GAS & WATER SYSTEMS RECEIVED: 03/19/84 JA: NY								
8425272	5501	3110116102	103		WARD #1	BATH	2.4	CONSOLIDATED GAS
BEREA OIL AND GAS CORPORATION RECEIVED: 03/19/84 JA: NY								
8425266	5254	3101318229	102-2		107-TF BROWN UNIT #4	WILDCAT	15.0	COLUMBIA GAS TRAN
8425273	5179	3101318012	102-2		107-TF CHARRINGTON CREEK INC UNIT #3	WILDCAT	15.0	COLUMBIA GAS TRAN
8425267	5294	3101318302	102-2		107-TF D NELSON #1	WILDCAT	15.0	
8425253	5273	3101318220	102-2		107-TF HILL UNIT #4	WILDCAT	12.0	COLUMBIA GAS TRAN
8425263	5278	3101318236	102-2		107-TF HILL UNIT #5	WILDCAT	11.0	COLUMBIA GAS TRAN
8425265	5296	3101318321	102-2		107-TF H SPIER #1	WILDCAT	14.0	COLUMBIA GAS TRAN
8425264	5256	3101318163	102-2		107-TF WALKER UNIT #1	WILDCAT	11.0	COLUMBIA GAS TRAN
8425264	5271	3101318212	102-2		107-TF WHEELER NYS UNIT #10	WILDCAT	10.0	COLUMBIA GAS TRAN
BOUNTY OIL & GAS INC RECEIVED: 03/19/84 JA: NY								
8425276	5524	3101317900	102-2		107-TF K SMITH UNIT #1	RUSTI	0.0	COLUMBIA GAS TRAN

JD NO		JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
VOLUME 1101									
DOWAN & ASSOCIATES INC				RECEIVED: 03/19/84		JA: NY			
8425262	5543		3100917134	102-2	107-TF	A MILLER #1 KX-5	CONELIANGO	30.0	COLUMBIA GAS TRAN
8425271	5603		3100917212	102-2	107-TF	ALLEN UNIT #1 KX-9	CONELIANGO	30.0	COLUMBIA GAS TRAN
8425260	5343		3101317797	102-2		BROWN UNIT #1 KA-152	CLYMER	0.0	COLUMBIA GAS TRAN
8425243	5927		3101318563	102-2	107-TF	FRALICK UNIT #1 KV-67	HARMONY	25.0	COLUMBIA GAS TRAN
8425269	5599		3100917147	102-2	107-TF	G JAMES #1 KX-8	CONELIANGO	30.0	COLUMBIA GAS TRAN
8425274	5539		3101318364	102-2	107-TF	GLEN HOLTHOUSE UNIT #1 KV-54	CLYMER	30.0	COLUMBIA GAS TRAN
8425270	5560		3100917206	102-2	107-TF	M HOWARD UNIT #1 KX-11	CONELIANGO	30.0	COLUMBIA GAS TRAN
8425268	5556		3100917267	102-2	107-TF	R STONE #1 KX-12	CONELIANGO	30.0	COLUMBIA GAS TRAN
8425255	5545		3101318354	102-2	107-TF	WILSON UNIT #1 KV-49	CARROLL	30.0	COLUMBIA GAS TRAN
ENHVIDGAS INC				RECEIVED: 03/19/84		JA: NY			
8425284	5357		3101318250	107-TF		A JOHNSTON #2	ELLINGTON - MEDINA	18.0	
8425280	5358		3101318181	107-TF		C LAKESIDE #1	ELLINGTON - MEDINA	18.0	
8425297	5240		3101314072	107-TF		D KEEFE #2	CHAUTAUQUA - MEDINA	18.0	COLUMBIA GAS TRAN
8425282	5238		3100918166	107-TF		G BROWN #5	RANDOLPH - MEDINA	18.0	COLUMBIA GAS TRAN
8425261	5394		3101318237	107-TF		J BEIGHTOL #2	ELLINGTON - MEDINA	18.0	
8425284	5399		3101318188	107-TF		J MACDONELL #1	NORTH HARMONY - MEDIN	18.0	COLUMBIA GAS TRAN
8425279	5360		3101318243	107-TF		L BEIGHTOL #1	ELLINGTON - MEDINA	18.0	
8425255	5241		3101317904	107-TF		M RICE #1	CHAUTAUQUA - MEDINA	18.0	COLUMBIA GAS TRAN
8425281	5400		3101318194	107-TF		N HOOD #2	ELLINGTON - MEDINA	18.0	
8425278	5359		3101317800	107-TF		R COLE #1	POLAND - MEDINA	18.0	
8425258	5239		3101318162	107-TF		R CROSS #1	POLAND - MEDINA	18.0	COLUMBIA GAS TRAN
8425277	5355		3101318129	107-TF		R JOHNNING #2	ELLINGTON - MEDINA	18.0	
8425283	5356		3101318130	107-TF		R JOHNNING #3	ELLINGTON - MEDINA	18.0	
LENAPPE RESOURCES CORP				RECEIVED: 03/19/84		JA: NY			
8425251	5220		3112114165	102-2		ZIELINSKI UNIT #1 LRC #59	WILDCAT	20.0	ELIZABETHTOWN GAS
NATIONAL FUEL GAS SUPPLY CORP				RECEIVED: 03/19/84		JA: NY			
8425250	5330		3101317927	102-2		BOARDMAN-PRATT #5252 (JO)	WILDCAT	23.0	COLUMBIA GAS TRAN
SEIS-EX GEOPHYSICAL LTD				RECEIVED: 03/19/84		JA: NY			
8425249	5919		3101318557	102-2	107-TF	SEIS-EX WIGGERS (HANSON) #1	NORTH CLYMER	25.0	COLUMBIA GAS TRAN
TIRHAN PETROLEUM INC				RECEIVED: 03/19/84		JA: NY			
8425252	5577		3101317886	102-2		MANSFIELD #1 #31-013-17836	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
UNION DRILLING INC				RECEIVED: 03/19/84		JA: NY			
8425275	5276		3101318002	102-2	107-TF	HERZEL A ANDERSON #1 NY-0017	TOWN OF POLAND	0.0	COLUMBIA GAS TRAN
US ENERGY DEVELOPMENT CORP				RECEIVED: 03/19/84		JA: NY			
8425259	5338		3101318030	102-2		MOREY #1	BASS ISLAND	150.0	NATIONAL FUEL GAS
OKLAHOMA CORPORATION COMMISSION									
ANDERMAN/SMITH OPERATING CO				RECEIVED: 03/19/84		JA: OK			
8425362	26752		3500721187	103		LONGCOR #1-B	MOCANE-LAVERNE	19.3	NORTHERN NATURAL
CARBOR ENERGY CORP				RECEIVED: 03/19/84		JA: OK			
8425363	25374		3508121060	103		GORTON #1		0.0	ALLIED MATERIALS
C & S EXPLORATION INC				RECEIVED: 03/19/84		WA: OK			
8425369	21351		3506120590	103		BURRIS #1-5	EAST KEOTA	120.0	ARKANSAS LOUISIAN
CLARK RESOURCES INC				RECEIVED: 03/19/84		JA: OK			
8425370	17368		3507323396	102-4		ELIZABETH 20-1 (MISSISSIPPI)	SOONER TREND	40.0	NORTHWEST CENTRAL
COTTON PETROLEUM CORPORATION				RECEIVED: 03/19/84		JA: OK			
8425377	27027		3504321759	102-3		IRENE #1	PUTNAM NORTH	0.0	
8425366	25017		3501922414	102-3		STATE PARK "A" #1		0.0	UNITED GAS PIPELI
CUESTA ENERGY CORP				RECEIVED: 03/19/84		JA: OK			
8425376	27001		3504700000	103		LUCAS #1-27		182.5	UNION TEXAS PETRO
FLINT J A				RECEIVED: 03/19/84		JA: OK			
8425374	26996		3513322297	103		LYNCH #1	LITTLE RIVER	524.0	ARKANSAS LOUISIAN
HARPER OIL COMPANY				RECEIVED: 03/19/84		JA: OK			
8425378	27061		3504321818	103		SEIFRIED #1	N-W CANTON	35.0	PHILLIPS PETROLEU
8425373	26994		3509322765	103		WHITE #2	SOUTH AILES	90.0	PHILLIPS PETROLEU
HEARTLAND EXPLORATION INC				RECEIVED: 03/19/84		JA: OK			
8425375	27055		3510920882	103		BLENN #1-3	WEST EDMOND	91.0	PHILLIPS PETROLEU
LATIGO OIL & GAS INC				RECEIVED: 03/19/84		JA: OK			
8425372	26888		3500722611	103		BARBY A-2	MOCANE-LAVERNE	300.0	NORTHERN NATURAL
MACKELLAR INC				RECEIVED: 03/19/84		JA: OK			
8425379	27062		3507323872	103		WICKETT #2	SOONER TREND	0.0	CONOCO INC
PHILLIPS PETROLEUM COMPANY				RECEIVED: 03/19/84		JA: OK			
8425367	24892		3501721686	102-4		CONNELLY TRUST A #1	WEST OKARCHE	0.0	ONG WESTERN INC
RACHALK PRODUCTION INC				RECEIVED: 03/19/84		JA: OK			
8425368	23507		3503221034	102-4		CHARLES HARRELL #1	RINGWOOD	1.0	UNION TEXAS PETRO
SHAWVER & SON INC				RECEIVED: 03/19/84		JA: OK			
8425371	26795		3510920787	103		COLLEGE PARK #1		13.1	PHILLIPS PETROLEU
THX OIL PRODUCERS				RECEIVED: 03/19/84		JA: OK			
8425380	27066		3514320548	103		CAMPBELL S23-1		0.0	WEST-TUL GAS CO
8425382	27069		3503722305	103		FORAKER 1		0.0	WEST-TUL GAS CO
8425381	27068		3514321234	103		KOONTZ 1		0.0	WEST-TUL GAS CO
8425383	27070		3514321235	103		NELSON 1-A		0.0	WEST-TUL GAS CO
TXO PRODUCTION CORP				RECEIVED: 03/19/84		JA: OK			
8425365	25104		3505321173	102-2	103	HARDIMAN "A" #1	WILDCAT	0.0	
8425364	25105		3505321189	102-2	103	NEILSON #1		58.0	
WEST VIRGINIA DEPARTMENT OF MINES									
CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED: 03/19/84		JA: WV			
8425391	4700106687		108			AUDREY D CORDER 11865	PLEASANT	21.5	GENERAL SYSTEM PU
8425389	4707700172		108			BIRDIE MORGAN 11876	VALLEY	9.0	GENERAL SYSTEM PU
8425387	4703301927		108			D M COLE 12539	UNION	20.0	GENERAL SYSTEM PU
8425385	4704900401		108			J W HAWKINS 9510	LINCOLN	14.0	GENERAL SYSTEM PU
8425386	4704102299		108			N E ALLEN 7760	HAYVERS CREEK	19.0	GENERAL SYSTEM PU
8425388	4707700173		108			PRESTON COAL & COKE 11879	VALLEY	12.0	GENERAL SYSTEM PU
8425390	4703300939		108			TAYLOR WARD 12116	SARDIS	12.0	GENERAL SYSTEM PU
CONTINENTAL PETROLEUM CO				RECEIVED: 03/19/84		JA: WV			
8425426	4704103349		107-DV			LIVELY #1	GLENVILLE NORTH	27.0	COLUMBIA GAS TRAN
D C MALCOLM INC				RECEIVED: 03/19/84		JA: WV			
8425400	4706700595		103			DANNY WRISTON #2	TWENTY MILE CREEK	0.0	ROARING FORK GAS
ENERGY DEVELOPMENT CORP				RECEIVED: 03/19/84		JA: WV			
8425401	4704700878		103			EDC #43-MCD-878	BIG SANDY	48.0	CONSOLIDATED GAS
JAMES F SCOTT				RECEIVED: 03/19/84		JA: WV			
8425418	4701703235		103			AFGL FREEMAN #3 S-475	GREENRRIER	0.0	CONSOLIDATED GAS
8425415	4704700891		103			BOBBY MURCY S-431	SANDY RIVER	0.2	
8425413	4704900761		103			EUGENE SAPP S-459	UNION	0.3	
8425395	4704700889		103			HELEN BLEVINS S-435	SANDY RIVER	0.3	CONSOLIDATED GAS
8425412	4705901054		103			HILLARD BARTRAM S-469	STAFFORD	21.0	
8425419	4704900760		102-4			JAMES F SCOTT S-478	GRANT	0.2	
8425416	4703302558		103			LESLIE CECIL #2 S-342	UNION	15.0	CONSOLIDATED GAS
8425417	4703302548		103			PATRICIA BECKER #3 S-339	UNION	25.0	CONSOLIDATED GAS
8425392	4704900761		102-4			S-459 EUGENE SAPP	UNION	0.3	

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JD NO	JA DKT	API NO	D SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8425414		4708100635	103	5-480 PAUL MCGRAW	TRAP HILL	0.2	CONSOLIDATED GAS
-KEPCO INC			RECEIVED: 03/19/84	JA: WV			
8425409		4709100266	103	B S GRIMES #1 (WK-89)	FETTERMAN DISTRICT	45.0	TENNESSEE GAS PIP
8425410		4709100266	102-2	B S GRIMES #1 (WK-89)	FETTERMAN DISTRICT	45.0	TENNESSEE GAS PIP
8425406		4709100268	103	D J POE #1 (WK-93)	FETTERMAN DISTRICT	30.0	TENNESSEE GAS PIP
8425429		4709100268	107-DV	D J POE #1 (WK-93)	FETTERMAN DISTRICT	30.0	TENNESSEE GAS PIP
8425411		4709100261	102-2	DAVID F LUCAS (WK-90)	FETTERMAN DISTRICT	48.0	TENNESSEE GAS PIP
8425420		4709100261	103	DAVID F LUCAS (WK-90)	FETTERMAN DISTRICT	48.0	TENNESSEE GAS PIP
8425403		4709100342	103	J B DADISHAN #2 (WK-225)	FETTERMAN DISTRICT	35.0	TENNESSEE GAS PIP
8425423		4709100342	102-2	J B DADISHAN #2 (WK-225)	FETTERMAN DISTRICT	35.0	TENNESSEE GAS PIP
8425405		4709100313	103	J L LUCAS #2 (WK-226)	FETTERMAN DISTRICT	40.0	TENNESSEE GAS PIP
8425421		4709100313	102-2	J L LUCAS #2 (WK-226)	FETTERMAN DISTRICT	40.0	TENNESSEE GAS PIP
8425404		4709100320	103	J LUZADDER (WK-227)	FETTERMAN DISTRICT	25.0	TENNESSEE GAS PIP
8425428		4709100320	107-DV	J LUZADDER (WK-227)	FETTERMAN DISTRICT	25.0	TENNESSEE GAS PIP
8425408		4709100262	103	LUCAS (WK-91)	FETTERMAN DISTRICT	60.0	TENNESSEE GAS PIP
8425430		4709100262	107-DV	LUCAS (WK-91)	FETTERMAN DISTRICT	60.0	TENNESSEE GAS PIP
8425407		4709100267	103	P O BROWN #1 (WK-92)	FETTERMAN DISTRICT	20.0	TENNESSEE GAS PIP
8425422		4709100267	102-2	P O BROWN #1 (WK-92)	FETTERMAN DISTRICT	20.0	TENNESSEE GAS PIP
8425402		4709100350	103	R L KNOTTS (WK-228)	FETTERMAN DISTRICT	20.0	TENNESSEE GAS PIP
8425427		4709100350	107-DV	R L KNOTTS (WK-228)	FETTERMAN DISTRICT	20.0	TENNESSEE GAS PIP
-L & B OIL CO INC			RECEIVED: 03/19/84	JA: WV			
8425425		4707301516	107-DV	CUNNINGHAM #1	UNION	210.0	
-MARIETTA ROYALTY CO INC			RECEIVED: 03/19/84	JA: WV			
8425399		4710701236	103	SANDY-EWING-ALTON #1		2.0	PENNZOIL CO
-PEAKE OPERATING CO			RECEIVED: 03/19/84	JA: WV			
8425397		4703903982	103	HOY #1-A	(WASHINGTON DISTRICT)	5.0	COLUMBIA GAS TRAN
8425398		4703903986	103	HALKER #1-A	(JEFFERSON DISTRICT)	5.0	COLUMBIA GAS TRAN
-POLING C S & J G			RECEIVED: 03/19/84	JA: WV			
8425424		4700101852	107-DV	C S & J G POLING #1	PHILIPPI DISTRICT	10.0	
-UNITED OPERATING COMPANY			RECEIVED: 03/19/84	JA: WV			
8425393		4702104110	103	GAINER #3	TURKEY LICK RUN	0.0	CONSOLIDATED GAS
-UNITED PETRO LTD			RECEIVED: 03/19/84	JA: WV			
8425432		4701303569	103	DENVER O CHENOUETH #1	MINNORA GAS FIELD	6.0	CONSOLIDATED GAS
8425435		4709702573	103	F W ARMSTRONG #1	ABBOTT-FRENCH CREEK C	12.0	COLUMBIA GAS TRAN
8425394		4701303418	108	JEHNNINGS P ELLISON #1	MINNORA GAS	2.0	CONSOLIDATED GAS
8425431		4709702570	103	PAUL W SHALLWOOD #1	ABBOTT-FRENCH CREEK C	14.0	COLUMBIA GAS TRAN
8425396		4709702571	103	R C WILSON #1	ABBOTT-FRENCH CREEK C	29.0	COLUMBIA GAS TRAN
8425433		4709702568	103	R MICK #1	ABBOTT-FRENCH CREEK C	14.0	COLUMBIA GAS TRAN
8425434		4709702569	103	RALPH HARPER #2	ABBOTT-FRENCH CREEK C	14.0	COLUMBIA GAS TRAN

** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, DENVER, CO							

-BEARDOOTH OIL & GAS CO			RECEIVED: 03/15/84	JA: CO F			
8425214		0510308957	107-TF	NATOMAS FEDERAL #2-15	DRAGON TRAIL	70.0	NORTHWEST PIPELIN
-CELSIUS ENERGY CO			RECEIVED: 03/15/84	JA: CO F			
8425212		0507708113	103	BULL BASIN 1-35	PLATEAU	378.0	
-COSEKA RESOURCES (USA) LIMITED			RECEIVED: 03/15/84	JA: CO F			
8425215		0510308260	107-TF	FEDERAL 17-D-23-4-103	WILDCAT	63.9	NORTHWEST PIPELIN
-NORRIS OIL CO			RECEIVED: 03/15/84	JA: CO F			
8425213		0507708541	107-TF	LIVINGSTON 11-2	PLATEAU	1.0	ROCKY MOUNTAIN NA

** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ROSWELL, NM							

-ANDCO PRODUCTION CO			RECEIVED: 03/19/84	JA: NM L			
8425287		RNM 0296-83	102-2	FEDERAL "CM" COM #1	ANTELOPE RIDGE ATOKA	221.0	PHILLIPS PETROLEU
-DEPCO INC			RECEIVED: 03/19/84	JA: NM L			
8425300		RNM 0158-83	102-2	ROSE FEDERAL COM #10	PECOS SLOPES ABO	180.0	TRANSWESTERN PIPE
8425301		RNM 0158-83	102-2	ROSE FEDERAL COM #10	PECOS SLOPES ABO	180.0	TRANSWESTERN PIPE
8425296		RNM 0206-83	102-2	VANCE FEDERAL A #2	PECOS SLOPES ABO	360.0	
-GREAT WESTERN DRILLING COMPANY			RECEIVED: 03/19/84	JA: NM L			
8425293		RNM 0376-83	102-2	MABEL HALE FEDERAL #1	UNDESIGNATED (BONE SP	50.7	PHILLIPS PETROLEU
-GULF OIL CORPORATION			RECEIVED: 03/19/84	JA: NM L			
8425285		RNM 0223-83	102-2	LOVING FEDERAL COM #1	NORTH LOVING ATOKA	0.0	TRANSWESTERN PIPE
-HNG OIL COMPANY			RECEIVED: 03/19/84	JA: NM L			
8425297		RNM 0230-83	102-2	HALF 5 FEDERAL COM #1	PITCHFORK RANCH (MORR	1500.0	TRANSWESTERN PIPE
8425288		RNM 0179-83	102-2	MARSHALL "25" FEDERAL #1	PITCHFORK RANCH MORRO	500.0	
-MESA PETROLEUM CO			RECEIVED: 03/19/84	JA: NM L			
8425294		RNM 0208-83	102-2	CAROL FEDERAL #5	WEST PECOS SLOPE ABO	720.0	
8425286		RNM 0157-83	102-2	CAROL FEDERAL COM #13	WEST PECOS SLOPE	720.0	TRANSWESTERN PIPE
8425305		RNM 0207-83	102-2	DEBBIE FEDERAL #2	WEST PECOS SLOPE ABO	360.0	
-YATES PETROLEUM CORPORATION			RECEIVED: 03/19/84	JA: NM L			
8425289		RNM 0191-83	102-2	FEDERAL "MY" #7	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8425304		RNM 0233-83	102-2	GLOBE "MH" FED COM #4	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8425292		RNM 0200-83	102-3	MILNER "XD" FED #1	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8425298		RNM 0009-84	102-2	MOKAGHAN "QY" FED #10	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8425290		RNM 0194-83	102-2	MOKAGHAN "QY" FED #9	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8425306		RNM 0193-83	102-3	POWERS "OL" FED #9	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8425299		RNM 0360-83	102-2	SHORT "RN" FED #2	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8425291		RNM 0195-83	102-3	SORENSEN "IB" FED #3	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8425303		RNM 0361-83	102-3	SORENSEN "IB" FED #4	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8425295		RNM 0196-83	102-2	SPEAR "OA" FED #2	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8425302		RNM 0248-83	102-2	THORPE "MI" FED #10	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE

** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, WYOMING, WY							

-MARATHON OIL COMPANY			RECEIVED: 03/16/84	JA: WY T			
8425216		WI-148-3	103	ATHERLY #11 ENDAR & TENSLEEP FORMATI	OREGON BASIN	7.3	COLORADO INTERSTA
8425220		WI-152-3	103	ATHERLY #9 ENDAR & TENSLEEP FORMATI	OREGON BASIN	10.4	COLORADO INTERSTA
8425218		WI-150-3	103	BASTON "B" #20 ENDAR AND TENSLEEP	OREGON BASIN	8.4	COLORADO INTERSTA
8425219		WI-151-3	103	CUSTER #33 (TENSLEEP FORMATION)	OREGON BASIN	11.3	COLORADO INTERSTA
8425217		WI-149-3	103	NIELSON #9 ENDAR & TENSLEEP FORMATI	OREGON BASIN	25.6	COLORADO INTERSTA

[FR Doc. 84-9711 Filed 4-10-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1102]

NGPA Notices of Determination by Jurisdictional Agencies

Issued: April 6, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83-50-000, 49 FR 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, will not be published in the Federal Register. Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the

FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

- Section 102-1: New OCS lease
 102-2: New well (2.5 mile rule)
 102-3: New well (1000 ft rule)
 102-4: New onshore reservoir
 102-5: New res. on old OCS lease
- Section 103: New onshore production well
- Section 107-DP: 15,000 ft or deeper
 107-GB: Geopressured brine
 107-DV: Devonian Shale
 107-CS: Coal seam gas
 107-PE: Production enhancement
 107-TF: New tight formation
 107-RT: Recompletion tight formation
- Section 108: Stripper well
 108-SA: Seasonally affected
 108-ER: Enhanced recovery
 108-PB: Temporary pressure buildup

Kenneth F. Plumb,
 Secretary.

NOTICE OF DETERMINATIONS
 ISSUED APRIL 6, 1984

VOLUME 1102

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION								

8425495	K-83-0498	1512900000	108		DUNN GAS UNIT #1	HUGOTON	15.0	NORTHWEST CENTRAL
8425520	K-83-0734	1518720228	108		G ARNOLD UNIT #1	HUGOTON	20.0	COLORADO INTERSTA
8425519	K-83-0733	1507520226	108		OVERBEY GAS UNIT #2	HUGOTON	20.0	COLORADO INTERSTA

8425465	K-83-0500	1518920641	103		BAKER F-1	PANOMA COUNCIL GROVE	1140.0	PANHANDLE EASTERN
8425458	K-83-0805	1517520402	108		COSGROVE A #2	SHUCK	18.0	CIMARRON-QUINQUE
8425466	K-83-0527	1518920664	103		FERGUSON A-1	PANOMA	267.0	PANHANDLE EASTERN
8425459	K-83-0806	1512920434	108		JONES C #3	SANTA FE TRAIL	15.0	CIMARRON-QUINQUE
8425457	K-83-0804	1512920586	108		LINSCOTT B #8	INTERSTATE RED CAVE	2.0	PANHANDLE EASTERN
8425538	K-83-0657	1517520525	108		MAXWELL B #1	SHUCK	4.5	CIMARRON-QUINQUE
8425542	K-83-0712	1517520693	102-4		UNREIN A #1	SHUCK	30.0	CIMARRON-QUINQUE

8425482	K-83-0781	1509121089	102-2		WILLIAMS #1	W C	15.0	
8425502	K-83-0741	1512526412	102-2		SHOUSE #4	COFFEEVILLE--CHERRYVA	28.0	NORTHWEST CENTRAL
8425540	K-83-0691	1514521061	102-2		STEFFEN #3	STEFFEN SOUTH	5.4	NORTHERN NATURAL
8425547	K-83-0829	1509500506	103		MARK #2	MESSSENGER	7.5	KANSAS GAS SUPPLY
8425471	K-83-0716	1512526443	102-2		BURK #12	COFFEYVILLE CHERRYVAL	0.0	CITIES SERVICE CO
8425472	K-83-0717	1512521444	102-2		BURK #13	COFFEYVILLE-CHERRYVAL	0.0	CITIES SERVICE CO
8425473	K-83-0718	1512526445	102-2		BURK #14	COFFEYVILLE-CHERRYVAL	0.0	CITIES SERVICE CO

8425541	K-83-0711	1515120039	102-4		GEORGIA #1	WILDCAT	95.0	KANSAS GAS SUPPLY
8425490	K-82-1071	1518120093	108		BRINEY #1-33	GOODLAND	11.0	KN ENERGY INC
8425551	K-83-0833	1518120256	102-2		CITY OF GOODLAND 1-8	GOODLAND	15.0	K-N ENERGY INC
8425436	K-82-1069	1518120072	108		GLASCO #5-31	GOODLAND	14.6	KN ENERGY INC
8425492	K-82-1078	1518120097	108		NEMECHEK #1-3	GOODLAND	12.0	KN ENERGY INC
8425491	K-82-1073	1518120042	108		PINKNEY #1-32	GOODLAND	7.3	KN ENERGY INC
8425549	K-83-0831	1518120259	102-2		SCHWENDENER 1-26	GOODLAND	15.0	K-N ENERGY INC
8425548	K-83-0830	1518120260	102-2		SCHWENDENER 3-36	GOODLAND	15.0	K-N ENERGY INC
8425550	K-83-0832	1518120258	102-2		WEARY 1-16	GOODLAND	15.0	K-N ENERGY INC

8425470	K-83-0588	1517520697	103		HAYS "A" #1	SILVERMAN	405.0	NORTHERN NATURAL

8425506	K-83-0747	1501720292	102-2		BROWNING #4-1	KOEGEBOEHN	1.0	FOOR PIPELINE COR
8425507	K-83-0748	1501720290	102-2		HEDSTROM #5-1	KOEGEBOEHN	3.0	FOOR PIPELINE COR
8425508	K-83-0749	1501720293	102-2		MADDOX #29-1	VETTER	2.0	FOOR PIPELINE COR
8425509	K-83-0750	1501720294	102-2		MADDOX #29-2	VETTER	2.2	FOOR PIPELINE COR
8425510	K-83-0751	1501720291	102-2		NOVAK #32-1	VETTER	1.8	FOOR PIPELINE COR

8425500	K-83-0739	1509921711	102-2		B JONES #1	MOUND VALLEY	51.6	SALEM PIPELINE CO
8425501	K-83-0740	1509921449	102-2		B JONES #2	MOUND VALLEY	6.7	SALEM PIPELINE CO

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JD NO	JA DKT	API NO	D SEC(1) SEC(2) WELL NAME	FIELD NAME	PROD	PURCHASER
-ENERGETICS OPERATING CO	8425494 K-83-0482	1503320570	RECEIVED: 03/19/84 JA: KS	WILMORE	275.0	
-ENERGY RESERVES GROUP INC	8425503 K-83-0742	1509521351	103 YOST 31-16			
8425439 K-83-0817	1509521355	103 C J BOYLE "K" #4		SPIVEY GRABS	18.6 KANSAS POWER & LI	
-FAIRWAY PETROLEUM INC	8425452 K-83-0796	1500520033	103 HUFFORD #4	W C FIELD	11.9 KANSAS GAS SUPPLY	
8425451 K-83-0795	1510320224	102-2 POHL #2		ATCHISON	29.2 NORTHWEST CENTRAL	
-GEAR PETROLEUM CO INC	8425440 K-83-0818	1504700000	102-2 WILKES #2	WILDCAT	29.2 NORTHWEST CENTRAL	
-GETTY OIL COMPANY	8425445 K-83-0773	1511920635	RECEIVED: 03/19/84 JA: KS	W A C SW	70.0 NATURAL GAS PIPEL	
-GLEN E JEFFERY	8425521 K-83-0766	1502500000	RECEIVED: 03/19/84 JA: KS	MCKINNEY	75.0 KANSAS POWER & LI	
8425525 K-83-0758	1502500000	108 BERNIS A #1		MCKINNEY	13.8 NORTHERN NATURAL	
8425522 K-83-0765	1511900000	108 CAMPBELL #1		MCKINNEY-FINCHAM	7.2 NORTHERN NATURAL	
8425523 K-83-0764	1511900000	108 JUDY MEYER #1		MCKINNEY	10.6 NORTHERN NATURAL	
-GRAHAM-MICHAELIS CORP	8425486 K-83-0785	1503320619	RECEIVED: 03/19/84 JA: KS	WILMORE	0.0 KANSAS GAS SUPPLY	
8425487 K-83-0786	1509720965	103 KENNEDY #1-16		ALFORD	0.0 KANSAS GAS SUPPLY	
8425488 K-83-0787	1503320609	103 SMITH #2-34		MULE CREEK NORTHEAST	0.0 KANSAS GAS SUPPLY	
-GRANT OIL INC.	8425499 K-83-0738	1509121111	RECEIVED: 03/19/84 JA: KS	OLATHE	19.0 NORTHWEST CENTRAL	
8425497 K-83-0736	1509121110	102-2 BUSCH 2-1		OLATHE	106.0 NORTHWEST CENTRAL	
8425498 K-83-0737	1509121109	102-2 J MOLL 2-36		OLATHE	120.0 NORTHWEST CENTRAL	
8425496 K-83-0735	1509121113	102-2 PRETZ 3-31		OLATHE	19.0 NORTHWEST CENTRAL	
-GULF OIL CORPORATION	8425480 K-83-0847	1509720950	RECEIVED: 03/19/84 JA: KS	NICHOLS (DENNIS LS)	36.0	
8425467 K-83-0533	1517520659	102-4 ROBERT E LEE #1-11		WILDCAT	0.0	
-GUNNER OIL CO	8425505 K-83-0746	1515100000	RECEIVED: 03/19/84 JA: KS	HARDING (ADM-WAB)	55.0 CENTRAL STATES GA	
-HORIZON RESOURCES INC	8425513 K-83-0769	1500721499	RECEIVED: 03/19/84 JA: KS	HARDTNER	0.0 DELHI GAS PIPELIN	
-INTEGRATED ENERGY INC	8425530 K-82-1426	1515520552	RECEIVED: 03/19/84 JA: KS	FRIENDSHIP	3.7 PEOPLES NATURAL G	
8425531 K-83-0776	1515520961	103 CHESTER HAINES #1-8		SOUTHWEST YODER	118.0 PEOPLES NATURAL G	
-INTERNORTH INC	8425462 K-83-0812	1514520364	RECEIVED: 03/19/84 JA: KS	FT LARNED	19.0 NORTHERN NATURAL	
8425461 K-83-0811	1514520362	108 BOYD #1-30 A		FT LARNED	14.6 NORTHERN NATURAL	
8425552 K-83-0834	1503320321	108 LUCAS #1-13		BENSON	14.5 NORTHERN NATURAL	
8425460 K-83-0810	1502510130	108 PETRO #1		MCKINNEY	7.2 NORTHERN NATURAL	
-JENNINGS DRILLING CO	8425533 K-83-0841	1510320043	RECEIVED: 03/19/84 JA: KS	LINWOOD	20.0	
8425476 K-83-0843	1510320163	102-2 DOVE #1		IRICK	20.0	
8425477 K-83-0844	1510320187	102-2 IRICK #1		IRICK	15.0	
8425478 K-83-0845	1510320198	102-2 IRICK #2		IRICK	20.0	
8425479 K-83-0846	1510320202	102-2 IRICK #3		IRICK	15.0	
8425532 K-83-0842	1510320119	102-2 IRICK #4		LINWOOD	10.0	
-K & O OIL CORP	8425528 K-83-0754	1500721631	RECEIVED: 03/19/84 JA: KS	STRANATHAN	13.6 KANSAS GAS SUPPLY	
8425527 K-83-0755	1500721632	103 GOTTSCH-PETERMANN #3		STRANATHAN	7.0 KANSAS GAS SUPPLY	
-K N ENERGY INC	8425453 K-83-0798	1507500009	RECEIVED: 03/19/84 JA: KS	BRADSHAW	18.0	
8425537 K-83-0621	1507530124	108 MAXFIELD 1 #131		BRADSHAW	14.0	
-KAISER-FRANCIS OIL COMPANY	8425464 K-83-0816	1508100000	RECEIVED: 03/19/84 JA: KS	HUGOTON	10.2 NORTHERN NATURAL	
-KAN-EX INC	8425515 K-83-0771	1515121276	RECEIVED: 03/19/84 JA: KS	KAN-OPENER	18.0 KANSAS GAS SUPPLY	
-KANSAS GAS PURCHASING	8425489 K-83-0792	1515100000	RECEIVED: 03/19/84 JA: KS	IUKA-CARMI	7.3 KANSAS GAS SUPPLY	
-KING ROGER	8425474 K-83-0719	1509921922	RECEIVED: 03/19/84 JA: KS	COFFEYVILLE CHERRYVAL	0.0 CITIES SERVICE CO	
8425475 K-83-0720	1509921921	102-2 KING #2		COFFEYVILLE-CHERRYVAL	0.0 CITIES SERVICE CO	
-MCCOY PETROLEUM CORP	8425543 K-83-0824	1507720946	RECEIVED: 03/19/84 JA: KS	SPIVEY-GRABS FIELD	12.0 CITIES SERVICE OI	
8425544 K-83-0825	1507720947	103 BURGESS "A" #2		SPIVEY-GRABS	12.0 CITIES SERVICE OI	
8425545 K-83-0826	1509520727	103 BURGESS "B" #3		SPIVEY-GRABS	15.0 PEOPLES NATURAL G	
8425546 K-83-0827	1507720945	103 KOHMAN #4 (DUNO)		SPIVEY-GRABS	18.0 CITIES SERVICE OI	
-MESA PETROLEUM CO	8425456 K-83-0801	1502520665	RECEIVED: 03/19/84 JA: KS	UNDESIGNATED MORROW	72.0	
-MOLZ OIL CO	8425511 K-83-0753	1500721650	RECEIVED: 03/19/84 JA: KS	STRANATHAN	18.0 KANSAS GAS SUPPLY	
8425526 K-83-0756	1500721645	103 MOLZ FARM CORP #2		STRANATHAN	18.0 KANSAS GAS SUPPLY	
-NORTHERN NATURAL GAS PRODUCING CO	8425485 K-83-0784	1518920662	RECEIVED: 03/19/84 JA: KS	CHESTER	20.0 NORTHERN NATURAL	
8425517 K-83-0724	1518920632	103 BOLES #1 UNIT #2			1.2 NORTHERN NATURAL	
-NORTHERN PUMP COMPANY	8425447 K-83-0775	1517520695	RECEIVED: 03/19/84 JA: KS	WILDCAT	547.0	
8425446 K-83-0774	1517520705	102-4 COLLINGWOOD #1		WILDCAT	365.0	
-OILWELL OPERATORS INC	8425535 K-83-0836	1500721673	RECEIVED: 03/19/84 JA: KS	CANEMA	48.0 PEOPLES NATURAL G	
8425534 K-83-0837	1500721682	103 CUMMINGS #1 NEW LEASE		CANEMA	360.0 PEOPLES NATURAL G	
-OX BOW GAS CO	8425484 K-83-0783	1520522434	RECEIVED: 03/19/84 JA: KS	FREDONIA	36.0 UNION GAS SYSTEM	
-PAN EASTERN EXPLORATION COMPANY	8425450 K-83-0794	1512900000	RECEIVED: 03/19/84 JA: KS	GREENWOOD	16.0 PANHANDLE EASTERN	
8425449 K-83-0793	1512900000	108 KANSAS 1-13		GREENWOOD	15.0 PANHANDLE EASTERN	
-PICKRELL DRILLING COMPANY	8425443 K-83-0822	1507720880	RECEIVED: 03/19/84 JA: KS	SPIVEY GRABS	8.7 CITIES SERVICE OI	
8425524 K-83-0759	1505720340	102-2 DUFFORD A-2		UNNAMED EXTENSION	146.0 KANSAS POWER & LI	
8425444 K-83-0823	1509521335	103 KOPF "E" #1		SPIVEY GRABS	42.3 KANSAS GAS SUPPLY	
8425441 K-83-0820	1505720326	102-2 MOORE "U" #1		UNNAMED EXTENSION	127.0 KANSAS POWER & LI	
8425442 K-83-0821	1509521328	103 YOUNG "JJ" #1		BELMONT CENTER	36.5 PEOPLES NATURAL G	
-RANGE OIL COMPANY INC	8425536 K-83-0835	1500721671	RECEIVED: 03/19/84 JA: KS	TRAFFAS SE	108.0 PEOPLES NATURAL G	
-RESOURCE VENTURES CORP	8425463 K-83-0814	1507720796	RECEIVED: 03/19/84 JA: KS	SULLIVAN (DOUGLAS)	73.0 PEOPLES NATURAL G	
-ROBERT F WHITE	8425469 K-83-0576	1511520954	RECEIVED: 03/19/84 JA: KS	LOST SPRINGS	18.0 NORTHWEST CENTRAL	
8425438 K-81-1217	1511520742	108 PLETT-BENTZ #1		EAST ANTELOPE	18.3 NORTHWEST CENTRAL	
-SMITH TERRY	8425529 K-82-0515	1500721242	RECEIVED: 03/19/84 JA: KS	MCGUIRE-GOEMAN	75.0 PANHANDLE EASTERN	
-SOHIO PETROLEUM CO	8425512 K-83-0767	1515121106	RECEIVED: 03/19/84 JA: KS	SWISHER	2.0 CENTRAL STATES GA	

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TENNECO OIL COMPANY			RECEIVED:	03/19/84	JA: KS			
8425437	K-82-0514	1515520667	103	BURNS #1-7	JA: KS	ZENITH-PEACE CREEK	30.0	
-TEXACO INC			RECEIVED:	03/19/84	JA: KS			
8425539	K-83-0669	1505500000	108	MARY CRASE #1	JA: KS	HUGOTON	5.4	NORTHERN NATURAL
-TXO PRODUCTION CORP			RECEIVED:	03/19/84	JA: KS			
8425483	K-83-0780	1515121322	102-4	ALLBRITTEN #1	JA: KS	BRANT	150.0	DELHI CORP
8425518	K-83-0727	1507720890	103	BARINGER #2	JA: KS	SULLIVAN	180.0	DELHI CORP
8425516	K-83-0722	1509521373	102-2	GREIVING #1	JA: KS	KOMAREK	150.0	DELHI CORP
8425468	K-83-0543	1509720940	103	KANE "A" #1	JA: KS	GLICK	50.0	
8425493	K-83-0451	1507720899	102-4	SLAGELL #1	JA: KS	SULLIVAN	360.0	DELHI CORP
8425481	K-83-0848	1507720919	103	WINGATE #1	JA: KS	SPIVEY-GRABS	4.0	KANSAS GAS SUPPLY
-TYLER RESOURCES GROUP			RECEIVED:	03/19/84	JA: KS			
8425454	K-83-0799	1520523062	102-2	STEPANICH 1-30	JA: KS	NECKLES	12.0	NORTHWEST CENTRAL
8425455	K-83-0800	1520523060	102-2	STEPANICH 2-30	JA: KS	NECKLES	12.0	NORTHWEST CENTRAL
-VINCENT OIL CORP			RECEIVED:	03/19/84	JA: KS			
8425514	K-83-0770	1515121298	102-4	FUBANK "A" #1	JA: KS	WILDCAT	200.0	KANSAS GAS SUPPLY
-WELLS ENERGY CORP			RECEIVED:	03/19/84	JA: KS			
8425504	K-83-0743	1505720338	103	BRENSING #2	JA: KS	PLEASANT VALLEY	365.0	
-WILLIAMS PRODUCTION CO			RECEIVED:	03/19/84	JA: KS			
8425448	K-83-0779	1509121120	102-2	AAMODT #1	JA: KS	OLATHE	1000.0	
OKLAHOMA CORPORATION COMMISSION								
-BILL N BARNES			RECEIVED:	03/20/84	JA: OK			
8425618	13905	3511100000	108	COTNER #1 111-53319	JA: OK	HECTOR	1.0	PHILLIPS PETROLEUM
-BLUE QUAIL ENERGY INC			RECEIVED:	03/20/84	JA: OK			
8425601	26947	3501722606	103	BASSETT #2	JA: OK	W-MUSTANG	684.0	PHILLIPS PETROLEUM
-BOBBY J DARNELL			RECEIVED:	03/20/84	JA: OK			
8425596	26919	3508322293	103	BAGGETT #1-21	JA: OK	E CRESCENT	19.0	EASON OIL CO
8425599	26922	3508322338	103	BROWN #1-21	JA: OK	E CRESCENT	18.0	EASON OIL CO
8425598	26921	3508322302	103	SMITH #2	JA: OK	S E LOVELL	77.0	EASON OIL CO
8425597	26920	3508322320	103	YANCEY #4	JA: OK	S E LOVELL	42.0	EASON OIL CO
-BOGERT OIL CO			RECEIVED:	03/20/84	JA: OK			
8425609	26953	3509322797	103	FLAMING UNIT #4-26	JA: OK	SOONER TREND	404.0	PHILLIPS PETROLEUM
-BURKHART PETROLEUM CORP			RECEIVED:	03/20/84	JA: OK			
8425607	26955	3504723426	103	COTTON #1-33	JA: OK	WEST GARDER	70.0	CHAMPLIN PETROLEUM
-CANADIAN EXPLORATION CORP			RECEIVED:	03/20/84	JA: OK			
8425604	26970	3501722618	103	BRYANT #29-1	JA: OK	NORTHWEST MUSTANG	36.0	PHILLIPS PETROLEUM
8425605	26972	3501722625	103	CUNNINGHAM #19-2	JA: OK	RICHLAND	52.0	PHILLIPS PETROLEUM
-CONOCO INC			RECEIVED:	03/20/84	JA: OK			
8425628	27686	3501700000	107-PE	VON TUNGELN #1	JA: OK	CALUMET	120.0	OKLAHOMA GAS & EL
-CUESTA ENERGY CORP			RECEIVED:	03/20/84	JA: OK			
8425623	27000	3504700000	103	E Z #1-34	JA: OK		146.0	UNION TEXAS PRODU
8425622	26999	3504700000	103	SATTELMEIER #1-33	JA: OK		73.0	UNION TEXAS PRODU
8425624	27002	3507300000	103	WHITE #1-14	JA: OK		36.5	PHILLIPS PETROLEUM
-D & J OIL COMPANY			RECEIVED:	03/20/84	JA: OK			
8425588	26556	3504721688	108	ELLA 1-10	JA: OK	SOONER TREND	12.5	CHAMPLIN PETROLEUM
8425614	24502	3505321145	102-4	KOLARIK 1-4	JA: OK	SOUTH MEDFORD	219.0	
-DONALD C SLAWSON			RECEIVED:	03/20/84	JA: OK			
8425627	27088	3505121428	107-DP	LINDSEY #1-24	JA: OK	SOUTHWEST RUSH SPRING	550.0	ARKANSAS LOUISIAN
-DUBLOON INC			RECEIVED:	03/20/84	JA: OK			
8425617	23460	3514300000	102-4	G H KINNEY #1	JA: OK	G H KINNEY	35.0	PHILLIPS PETROLEUM
-EARLSBORO ENERGIES CORP			RECEIVED:	03/20/84	JA: OK			
8425625	27010	3509322802	103	SCHOEPEL #1-9	JA: OK	RINGWOOD	168.0	RINGWOOD GATHERIN
-EL PASO NATURAL GAS COMPANY			RECEIVED:	03/20/84	JA: OK			
8425630	26106	3500920140	108-PB	STATE OF OKLAHOMA A #2	JA: OK	ERICK SOUTH	0.0	EL PASO NATURAL G
-ENERGY OPERATING CORP			RECEIVED:	03/20/84	JA: OK			
8425611	26886	3501121781	103	FISHER #1	JA: OK		180.0	WARREN PETROLEUM
-ENERGY QUEST DRILLING FUND LTD			RECEIVED:	03/20/84	JA: OK			
8425586	26697	3507121934	108	PARKER #1	JA: OK	UNNAMED	3.0	CHASE EXPLORATION
-GEORGE L LONG			RECEIVED:	03/20/84	JA: OK			
8425584	26887	3505321087	103	CARL GEIER #1-25	JA: OK	WAKITA	54.0	SUN EXPLORATION &
-GLENN BARRETT			RECEIVED:	03/20/84	JA: OK			
8425603	26957	3512322663	103	ANDY #1	JA: OK	BYNG	282.1	ARKANSAS LOUISIAN
-GRACE PETROLEUM CORPORATION			RECEIVED:	03/20/84	JA: OK			
8425606	27608	3501120229	107-PE	DUNN 1-30	JA: OK	WATONGA	0.0	OKLAHOMA GAS & EL
-HAZELWOOD OIL & GAS CO			RECEIVED:	03/20/84	JA: OK			
8425616	23614	3501121787	103	LUECKE-WEBER #1-14	JA: OK	SOONER TRENT	137.5	
-JEFFERSON-WILLIAMS ENERGY CORP			RECEIVED:	03/20/84	JA: OK			
8425608	26954	3510322085	103	OLIVIA MCNEIL #2	JA: OK	LUCIENE	3.6	AMINOIL USA INC
-KENNEDY & MITCHELL INC			RECEIVED:	03/20/84	JA: OK			
8425626	27011	3505921147	103	O'HAIR #1-807	JA: OK	LAVERNE	275.0	PHILLIPS PETROLEUM
-LINCOLN ROCK CORP			RECEIVED:	03/20/84	JA: OK			
8425592	24692	3508520702	102-4	BEDD #2	JA: OK	NORTHEAST MARIETTA	25.0	CIMARRON TRANSMIS
-LITZENBERGER EXPLORATION			RECEIVED:	03/20/84	JA: OK			
8425585	26781	3515100000	103	MONFORT #1-22	JA: OK	NORTH CAMPBELL	1.5	PHILLIPS PETROLEUM
-LOU DENNIS OIL CO			RECEIVED:	03/20/84	JA: OK			
8425595	26913	3512300000	103	DENNIS #1	JA: OK	BYNG	14.3	ARKANSAS LOUISIAN
-MANHATTAN DRILLING			RECEIVED:	03/20/84	JA: OK			
8425583	26899	3508100000	103	HOPKINS #A-1	JA: OK	DAVENPORT	0.0	MERIDIAN ENERGY I
-MUSTANG PRODUCTION CO			RECEIVED:	03/20/84	JA: OK			
8425593	24988	3501521431	102-4 103	MAJORS #1-6	JA: OK	N E HYDRO	130.0	OKLAHOMA GAS & EL
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	03/20/84	JA: OK			
8425613	24891	3501722313	102-4	HUFNAGEL D #1	JA: OK	WEST OKARCHE	0.0	ONG WESTERN INC
8425589	26131	3504700000	108-ER	SEIFERT A #1	JA: OK		14.0	TRANSOK PIPELINE
-RED STONE ENERGIES LTD			RECEIVED:	03/20/84	JA: OK			
8425590	25001	3501700000	102-4	REESE #18-8	JA: OK		0.0	PHILLIPS PETROLEUM
8425591	25000	3501722484	102-4	REESE #18-9	JA: OK		0.0	PHILLIPS PETROLEUM
-RUSSMARK ENERGY			RECEIVED:	03/20/84	JA: OK			
8425594	24942	3501121851	102-4	GEORGE #1-15	JA: OK		359.5	
-SANCHEZ-OBRIEN OIL & GAS CORP			RECEIVED:	03/20/84	JA: OK			
8425602	26956	3508321990	103	MORRISON #1 API #08321990	JA: OK	LAYTON	0.0	EASON OIL CO
-SANDSTONE RESOURCES INC			RECEIVED:	03/20/84	JA: OK			
8425612	26869	3510321971	103	TOTUSEK #1	JA: OK	TONKAWA	74.5	CITIES SERVICE OI
-SANTA FE MINERALS INC			RECEIVED:	03/20/84	JA: OK			
8425610	26926	3510322045	103	TAPPE #28-2	JA: OK		100.0	AMINOIL USA INC
-SHELL WESTERN E&P INC			RECEIVED:	03/20/84	JA: OK			
8425629	27704	3501521313	107-DP	MOORE #1-13	JA: OK		365.0	TENNESSEE GAS PIP
-TEXACO INC			RECEIVED:	03/20/84	JA: OK			
8425587	26631	3504723464	103	MARY VODICKA #2	JA: OK	SOONER TREND	70.9	EXXON CO U S A
-TXO PRODUCTION CORP			RECEIVED:	03/20/84	JA: OK			
8425619	26978	3509322795	103	CIMARRON FARMS #1	JA: OK	CHEYENNE VALLEY	0.0	DELHI GAS PIPELIN
8425615	23973	3509322696	102-4	CLASSEN "A" #4	JA: OK	E BADO	0.0	DELHI GAS PIPELIN
8425620	26980	3509322752	103	DYE "A" #1	JA: OK	E BADO	0.0	DELHI GAS PIPELIN

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JD NO	JA DKT	API NO	D SEC(1) SEC(2) WELL NAME	FIELD NAME	PROD	PURCHASER
-UNION OIL COMPANY OF CALIF			RECEIVED: 03/20/84 JA: OK			
8425521	26989	3507720156	103 MARY WHITE #2	SOUTH QUINTON	1209.0	ARKANSAS LOUISIAN
-WARREN DRILLING CO INC			RECEIVED: 03/20/84 JA: OK			
8425500	26923	3509322780	103 WILLIIS #1	DANE	50.0	PHILLIPS PETROLEU
***** WEST VIRGINIA DEPARTMENT OF MINES *****						
-ALAMCO INC			RECEIVED: 03/20/84 JA: WV			
8425580		4708300619	103 A-1065	ROARING CREEK DISTRICT	0.0	COLUMBIA GAS TRAN
8425578		4704103280	103 A-1197	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8425579		4704103273	103 A-1262	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
-B & F EXPLORATION			RECEIVED: 03/20/84 JA: WV			
8425573		4708506475	107-DV PRUITY #1	UNION	0.0	CONSOLIDATED GAS
-BADGER OIL & GAS CO INC			RECEIVED: 03/20/84 JA: WV			
8425570		4704302574	107-DV HOLLEY #2	BROWN SHALE	25.0	PENN201 UNITED I
8425582		4703903947	103 KSF #8	KANAWHA STATE FOREST	24.0	COLUMBIA GAS TRAN
-BLUE CREEK GAS COMPANY			RECEIVED: 03/20/84 JA: WV			
8425571		4703903983	107-DV KINDER #1	ELK DISTRICT	20.0	COLUMBIA GAS TRAN
8425572		4703903984	107-DV WORKMAN #2	ELK DISTRICT	15.0	COLUMBIA GAS TRAN
-QUAKER STATE OIL REFINING CORP			RECEIVED: 03/20/84 JA: WV			
8425567		4703923941	103 B J STOUT #1	BIG SANDY	7.3	COLUMBIA GAS TRAN
8425565		4703923939	103 C CHANDLER #1	ELK DISTRICT	10.2	COLUMBIA GAS TRAN
8425566		4703923940	103 C L DOUGLAS #1	ELK DISTRICT	7.3	COLUMBIA GAS TRAN
8425568		4703923961	103 M B MASON UNIT #1	ELK DISTRICT	5.8	COLUMBIA GAS TRAN
-ROCKWELL PETROLEUM CO			RECEIVED: 03/20/84 JA: WV			
8425562		4700701861	103 HOOVER #1	SALT LICK	30.0	CONSOLIDATED GAS
8425559		4700701862	103 HOOVER #3	SALT CREEK	20.0	CONSOLIDATED GAS
8425561		4700701863	103 HOOVER #4	SALT LICK	30.0	CONSOLIDATED GAS
8425560		4700701865	103 HOOVER #5	SALT LICK	20.0	CONSOLIDATED GAS
8425581		4741032950	103 MONEYFENNY #1	SALT CREEK	20.0	CONSOLIDATED GAS
8425558		4701703228	103 WOOTER #1	FALLEN TIMBER	30.0	CONSOLIDATED GAS
-SENECA-UPSHUR PETROLEUM CO			RECEIVED: 03/20/84 JA: WV			
8425577		4705901050	107-DV C-39	HARVEY	35.0	COLUMBIA GAS TRAN
8425576		4705901058	107-DV C-62	HARDEE	35.0	COLUMBIA GAS TRAN
8425575		4705901059	107-DV C-63	HARDEE	35.0	COLUMBIA GAS TRAN
8425574		4705901060	107-DV C-64	HARDEE	35.0	COLUMBIA GAS TRAN
-SPARTAN GAS COMPANY			RECEIVED: 03/20/84 JA: WV			
8425553		4710900911	103 Y & O COAL CO 95-S-301	OCEANA	395.0	COLUMBIA GAS TRAN
8425557		4710900868	103 Y & O COAL COMPANY 87-S-278	OCEANA	150.0	COLUMBIA GAS TRAN
8425556		4710900906	103 Y & O COAL COMPANY 95-S-295	OCEANA	100.0	COLUMBIA GAS TRAN
8425555		4710900909	103 Y & O COAL COMPANY 95-S-297	OCEANA	75.0	COLUMBIA GAS TRAN
8425554		4710900910	103 Y & O COAL COMPANY 97-S-300	OCEANA	75.0	COLUMBIA GAS TRAN
-THUNDER OIL CORP			RECEIVED: 03/20/84 JA: WV			
8425549		4708505767	107-DV INA BARNARD #1	PULLMAN	48.0	CARNESIE GAS CO
-UNION DRILLING INC			RECEIVED: 03/20/84 JA: WV			
8425563		4708300768	103 WARREN HEIRS #1 1722	MIDDLE FORK	0.0	COLUMBIA GAS TRAN
8425564		4709702553	103 YOUNG-TUSSING #1 1804	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN

[FR Doc. 84-9712 Filed 4-10-84; 8:45 am]

BILLING CODE 6717-01-C

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NGPA Notices of Determination by Jurisdictional Agencies

Issued: April 6, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83-50-000, 49 FR 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, will not be published in the Federal Register. Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, D.C. 20428, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the

indicated jurisdictional agencies by the FERC pursuant to NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285

Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New res. on old OCS lease

Section 103: New onshore production well

Section 107-DP: 15,000 ft or deeper
107-CB: Geopressured brine
107-DV: Devonian shale
107-CS: Coal seam gas
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation

Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Temporary pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED APRIL 6, 1984

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JD NO	JA DKT	API NO	D SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
***** COLORADO OIL & GAS COMMISSION *****							
8425649	83-732	0507708532	103	RECEIVED: 03/19/84 JA: CO ALTA DOLLEY #1	WILDCAT	60.0	NORTHWEST PIPELIN
8425653	83-813	0512310908	103	RECEIVED: 03/19/84 JA: CO CHAMPLIN 67 AMOCO "H" #1	CHIEFTAIN	30.0	PANHANDLE EASTERN
8425651	83-707	0512310001	103	DAVID HOWARD UNIT "C" #2	WATTENBERG	4.0	PANHANDLE EASTERN
8425654	83-801	0512310905	103	EDWARD P COSTIGAN #1	WATTENBERG	401.0	
8425652	83-770	0512310876	103	JOSEPH HUETT UNIT #2	WATTENBERG	4.0	PANHANDLE EASTERN
8425655	83-774	0500107320	103	THE GREELEY NATIONAL BANK #2	WATTENBERG	177.0	PANHANDLE EASTERN
8425656	83-775	0512309425	103	UPRR 23 PAN AMERICAN UNIT "L" #1	WATTENBERG	110.0	PANHANDLE EASTERN
8425657	83-804	0512309460	103	UPRR 42 PAN AMERICAN "AQ" #1	WATTENBERG	265.0	PANHANDLE EASTERN
8425657	83-804	0512309460	103	UPRR 42 PAN AMERICAN "AT" #1	WATTENBERG	207.0	PANHANDLE EASTERN
8425679	83-863	0512311082	103	RECEIVED: 03/19/84 JA: CO CAMENISCH #1	WATTENBERG	0.0	PANHANDLE EASTERN
8425680	83-901	0501306152	103	STROMQUIST #2	WATTENBERG	0.0	PANHANDLE EASTERN
8425658	83-879	0500107122	103	RECEIVED: 03/19/84 JA: CO GOETZ #1	SPINDLE	4.4	VESSELS GAS PROC
8425659	83-877	0500107782	103	GOETZ #2	SPINDLE	4.4	VESSELS GAS PROC
8425660	83-878	0500107193	103	RENSLOW #1	SPINDLE	4.4	VESSELS GAS PROC
8425678	83-766	0512310593	103	RECEIVED: 03/19/84 JA: CO AMEN #1	WATTENBERG SW SW SEC	90.0	PANHANDLE EASTERN
8425633	83-706	0512311234	102-4	RECEIVED: 03/19/84 JA: CO TURECEK #34-21X	BANNER LAKES	36.0	DAMSON OIL CORP
8425634	83-705	0512311218	102-4	UPRR AMBER 24-21X	BANNER LAKES	36.0	DAMSON OIL CORP
8425661	83-811	0503906248	103	RECEIVED: 03/19/84 JA: CO J R JOHNSON 31-1 #1	SONGBIRD ("J" SAND)	0.5	
8425662	83-765	0508106503	103	RECEIVED: 03/19/84 JA: CO N E CRAIG STATE 12-23	CRAIG NORTH	75.0	MOUNTAIN FUEL SUP
8425670	83-896	0512310932	103	RECEIVED: 03/19/84 JA: CO LEHAN #2	HAMBERT	0.0	PANHANDLE EASTERN
8425703	83-895	0512310932	107-TF	LEHAN #2	HAMBERT	0.0	PANHANDLE EASTERN
8425671	83-812	0512311272	103	RAITH #1	WATTENBERG	0.0	ASSOCIATED NATURA
8425663	83-795	0512311060	103	RECEIVED: 03/19/84 JA: CO COORS FEE 2-6	WATTENBERG SECTION 6	250.0	COORS ENERGY CO
8425681	83-824	0512311259	107-TF	RSW FARMS 2-26EG	GREELEY	175.2	COLORADO GATHERIN
8425682	83-739	0500108057	107-TF	RECEIVED: 03/19/84 JA: CO KALLSEN #1	WATTENBERG	30.0	PANHANDLE EASTERN
8425640	83-738	0512310901	102-2	RECEIVED: 03/19/84 JA: CO ALLISON 24-1	WATTENBERG	212.1	PANHANDLE EASTERN
8425683	83-760	0512310901	107-TF	ALLISON 24-1	WATTENBERG	212.1	PANHANDLE EASTERN
8425684	83-762	0512310899	107-TF	DINNER 1-1	WATTENBERG	148.9	PANHANDLE EASTERN
8425685	83-759	0512310898	107-TF	DINNER 6-1	WATTENBERG	182.5	PANHANDLE EASTERN
8425686	83-761	0512310900	107-TF	SCHITSLER 1-1	WATTENBERG	174.5	PANHANDLE EASTERN
8425687	83-763	0512310888	107-TF	WEIDENKELLER 1-1	WATTENBERG	309.2	PANHANDLE EASTERN
8425688	83-641	0512311244	107-TF	RECEIVED: 03/19/84 JA: CO LISA #2	WATTENBERG	27.0	COLORADO INTERSTA
8425641	83-899	0503906466	102-2	RUNNING CREEK STATE #2	CALEDONIA	22.0	ELBERT PLANT PART

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EXXON CORPORATION								
8425642	83-805	0507708132	102-2	RECEIVED: 03/19/84	JA: CO			
-GOLDEN BUCKEYE PETROLEUM CORP								
8425689	83-733	0512310959	107-TF	VEGA UNIT MW COALS P/A A #2	JA: CO	PICEANCE BASIN	95.0	NORTHERN NATURAL
8425690	83-737	0512310788	107-TF	CHAMPLIN 23-2	JA: CO			
8425643	83-806	0512310987	102-2	DINNER FARMS #1	JA: CO	OIL CREEK	40.0	COLORADO GATHERIN
8425691	83-736	0512311166	107-TF	DINNER FARMS #15-1	JA: CO	GREELEY	7.0	COLORADO GATHERIN
8425692	83-868	0512311287	107-TF	DINNER FARMS 15-2	JA: CO	GREELEY	40.0	COLORADO GATHERIN
8425693	83-869	0512311288	107-TF	FARMIR FARMS #6-1	JA: CO	WATTENBERG	0.0	NATURAL GAS ASSOC
8425695	83-735	0512311023	107-TF	FRY 13-1	JA: CO	WATTENBERG	0.0	NATURAL GAS ASSOC
8425696	83-880	0512311360	107-TF	GILL LAND #2	JA: CO	OIL CREEK	40.0	COLORADO GATHERIN
8425694	83-734	0512310789	107-TF	GILL LAND #22-4	JA: CO	OIL CREEK	0.0	COLORADO GATHERIN
-GRIFFIN OIL & GAS INC								
8425632	83-907	0512311397	102-4	GILL LAND ASSOCIATES #1	JA: CO	OIL CREEK	40.0	COLORADO GATHERIN
-J-W OPERATING COMPANY								
8425644	83-903	0512506936	102-2	LEE #1	JA: CO	BARBWIKE	292.0	DAMSON GAS PROCES
8425698	83-904	0512506936	107-TF	03/19/84	JA: CO			
8425664	83-905	0512506930	103	C JOSH #4-32	JA: CO	ROCK CREEK	155.0	KN ENERGY INC
8425699	83-906	0512506930	107-TF	C JOSH #4-32	JA: CO	ROCK CREEK	155.0	KN ENERGY INC
-JRC OIL								
8425697	83-695	0512311117	107-TF	M EDWARDS #3-31	JA: CO	NORTH BEECHER ISLAND	25.0	
-K N ENERGY INC								
8425645	83-841	0512506588	102-2	M EDWARDS #3-31	JA: CO	NORTH BEECHER ISLAND	25.0	
8425646	83-842	0512506612	102-2	RECEIVED: 03/19/84	JA: CO			
-LYNX EXPLORATION CO								
8425700	83-897	0500108258	107-TF	OPDYKE/HINKLE #1	JA: CO	WATTENBERG	0.0	PANHANDLE EASTERN
-MARTIN EXPLORATION MGMT CORP								
8425701	83-478	0501306085	103	03/19/84	JA: CO			
-MORGAN ENERGY CORP								
8425635	81-166	0512310122	102-4	ERTL #4-18	JA: CO	BOULDER VALLEY	10.0	PANHANDLE EASTERN
8425636	81-322	0512310154	102-4	ERTL #4-18	JA: CO	BOULDER VALLEY	10.0	PANHANDLE EASTERN
-MOUNTAIN PETROLEUM LTD								
8425647	82-1000	0512310725	102-2	RECEIVED: 03/19/84	JA: CO			
8425648	82-998	0512310688	102-2	HENDERSON #32-22	JA: CO	NE RIVERSIDE II	143.2	DAMSON OIL CORP
8425702	83-548	0512310815	107-TF	PACKARD 21-22	JA: CO	NE RIVERSIDE II	149.4	DAMSON OIL CORP
-MURCHISON BROTHERS								
8425666	83-662	0512506903	103	SHALE #1	JA: CO	WATTENBERG	100.0	PANHANDLE EASTERN
8425667	83-660	0512506931	103	STROH #1	JA: CO	WATTENBERG	110.0	PANHANDLE EASTERN
-NORRIS OIL CO								
8425672	83-892	0507708542	103	WIEDEMAN #1	JA: CO	WATTENBERG	110.0	PANHANDLE EASTERN
8425704	83-894	0507708542	107-TF	RECEIVED: 03/19/84	JA: CO			
8425673	83-891	0507708543	107-TF	DETERDING #1-30	JA: CO	BEECHER ISLAND	24.0	KN ENERGY INC
8425705	83-893	0507708543	107-TF	DETERDING #2-29	JA: CO	BEECHER ISLAND	0.0	KN ENERGY INC
-ROCK OIL CORP								
8425637	83-809	0500100000	102-4	RECEIVED: 03/19/84	JA: CO			
8425676	83-810	0512300000	103	SOUTHERN UTE #3-30	JA: CO	IGNACIO-BLANCO	249.4	WESTERN SLOPE GAS
-SAMUEL GARY OIL PRODUCER								
8425631	83-902	0500108197	102-4	SOUTHERN UTE #7-18	JA: CO	IGNACIO-BLANCO	49.9	WESTERN SLOPE GAS
-SHEPLER & THOMAS INC								
8425708	83-758	0512311230	107-TF	RECEIVED: 03/19/84	JA: CO			
8425709	83-648	0512311232	107-TF	03/19/84	JA: CO			
8425710	83-650	0512311231	107-TF	BRADBURY #12-14	JA: CO	BUCKSKIN	840.0	KOCH HYDROCARBON
-SHILON RESOURCES INC								
8425638	83-622	0507508083	102-4	RECEIVED: 03/19/84	JA: CO			
-SUPERIOR OIL CO								
8425677	83-353	0504506329	103	03/19/84	JA: CO			
8425711	83-352	0504506329	107-TF	KINZER 28-1	JA: CO	WATTENBERG (CODELL)	35.0	NATURAL GAS ASSOC
-UNITED PETROLEUM CORP								
8425639	83-445	0503906448	102-4	RIEDER #32-1	JA: CO	WATTENBERG	0.0	NATURAL GAS ASSOC
8425712	83-720	0506706644	107-TF	SMITH-REEVES #27-1	JA: CO	WATTENBERG	0.0	NATURAL GAS ASSOC
8425674	83-743	0506706561	103	RECEIVED: 03/19/84	JA: CO			
8425706	83-742	0506706561	107-TF	SVACINA #1	JA: CO	WARRIOR	0.0	
8425713	83-721	0506706561	107-TF	RECEIVED: 03/19/84	JA: CO			
8425675	83-741	0506706593	103	03/19/84	JA: CO			
8425707	83-740	0506706553	107-TF	C H LEMON #1-17U	JA: CO	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8425714	83-722	0506706626	107-TF	C H LEMON #1-17U	JA: CO	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8425715	83-723	0506706651	107-TF	CARLSON #32-1	JA: CO	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8425716	83-724	0506706612	107-TF	CLARA OHNEBUS #1-4	JA: CO	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8425717	83-723	0506706657	107-TF	CLARA OHNEBUS #1-4	JA: CO	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8425718	83-716	0506706615	107-TF	CUNDIFF #34-1	JA: CO	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8425719	83-719	0506706659	107-TF	DUSTIN #9-1	JA: CO	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8425720	83-717	0506706650	107-TF	HANSTEDT DEKAY CARDELL #7-1	JA: CO	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8425721	83-718	0506706661	107-TF	LEMON #17-2	JA: CO	IGNACIO BLANCO	0.0	EL PASO NATURAL G

MICHIGAN DEPARTMENT OF NATURAL RESOURCES								

-SUN EXPLORATION & PRODUCTION CO								
8425726		2111336096	103	RECEIVED: 03/20/84	JA: MI			
8425725		2111336106	103	ENTERPRISE UNIT #1-30	JA: MI	ENTERPRISE	13.0	DOW CHEMICAL CO
8425724		2111336082	103	ENTERPRISE UNIT #1-29	JA: MI	ENTERPRISE	17.0	DOW CHEMICAL CO
8425723		2114335767	103	ENTERPRISE UNIT #2-14	JA: MI	ENTERPRISE	8.0	DOW CHEMICAL CO
8425739		2111336371	103	ENTERPRISE UNIT TR 11 #6	JA: MI	ENTERPRISE	8.0	DOW CHEMICAL CO
8425727		2114335249	103	ENTERPRISE UNIT TRACT 1 #35	JA: MI	ENTERPRISE	5.0	DOW CHEMICAL CO
8425728		2114335225	103	ST HELEN UNIT #10-2	JA: MI	ST HELEN	2.0	DOW CHEMICAL CO
8425734		2114335316	103	ST HELEN UNIT #12-4	JA: MI	ST HELEN	0.4	DOW CHEMICAL CO
8425733		2114335362	103	ST HELEN UNIT #15-46	JA: MI	ST HELEN	2.0	DOW CHEMICAL CO
8425732		2114335361	103	ST HELEN UNIT #15-49	JA: MI	ST HELEN	1.0	DOW CHEMICAL CO
8425730		2114334992	103	ST HELEN UNIT #16-4	JA: MI	ST HELEN	8.0	DOW CHEMICAL CO
8425738		2114335384	103	ST HELEN UNIT #17-2	JA: MI	ST HELEN	3.0	DOW CHEMICAL CO
8425735		2114335208	103	ST HELEN UNIT #19-3	JA: MI	ST HELEN	1.0	DOW CHEMICAL CO
8425731		2114335609	103	ST HELEN UNIT #21-23	JA: MI	ST HELEN	1.0	DOW CHEMICAL CO
8425737		2114335360	103	ST HELEN UNIT #22-24	JA: MI	ST HELEN	3.0	DOW CHEMICAL CO
8425736		2114335359	103	ST HELEN UNIT #20-4	JA: MI	ST HELEN	4.0	DOW CHEMICAL CO
8425729		2114335358	103	ST HELEN UNIT #22-3	JA: MI	ST HELEN	0.4	DOW CHEMICAL CO
8425722		2114335175	103	ST HELEN UNIT #22-4	JA: MI	ST HELEN	5.0	DOW CHEMICAL CO

NORTH DAKOTA INDUSTRIAL COMMISSION								

-MARTIN OIL COMPANY								
8425741	910	3305301577	102-4	RECEIVED: 03/21/84	JA: ND	ELK	41.4	PHILLIPS PETROLEU
8425740	909	3305301596	102-4	JOHNSON 9-1	JA: ND	ELK	13.0	PHILLIPS PETROLEU

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-CHESTER OIL CO	8425794 9338	3515300000	102-2 OAKS #1-30		329.0	CALICHE PIPELINE	
-CNR RESOURCES INC	8425772 26300	3500721901	RECEIVED: 03/21/84 JA: OK				
-CORNEILL OIL CO	8425769 25840	3510700000	108-ER HENRY #1		0.0	PANHANDLE EASTERN	
-DYE BILLY LEE	8425796 10845	3514700000	RECEIVED: 03/21/84 JA: OK				
8425803 16657		3514700000	103 BELL "A" #1	COMO	52.8	PHILLIPS PETROLEU	
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-EL PASO NATURAL GAS COMPANY	8425786 23627	3500906764	RECEIVED: 03/21/84 JA: OK				
-ENERGY QUEST DRILLING FUND LTD	8425775 26690	3507121529	108-ER BINGHAM #1	BARTLESVILLE	0.0	PHILLIPS PETROLEU	
8425776 26691		3507122306	RECEIVED: 03/21/84 JA: OK				
8425777 26692		3507122320	108 CRAFT #1	WANN	36.0		
8425778 26693		3507121586	108 CRAFT #2	FORTY FIVE	68.0	PHILLIPS PETROLEU	
8425780 26695		3507121587	108 CRAFT #3	OGLESBY GAS FIELD	137.0	OKAN GAS CO	
8425779 26694		3507121588	108 HINTON #1	ERICK SOUTH	0.0	EL PASO NATURAL G	
8425773 26688		3507121935	108 HINTON #2				
8425766 26699		3507122305	108 HINTON #3		10.2	CHASE EXPLOATION	
8425774 26689		3507122319	108 PARKER-HAYES #1		10.2	CHASE EXPLOATION	
8425781 26696		3507121933	108 PARKER-HAYES #2		11.0	CHASE EXPLOATION	
-G R PIERCE OIL PROPERTIES INC	8425793 18304	3508320968	108 PARKER-HAYES #3		34.1	CHASE EXPLOATION	
8425792 18337		3511920849	108 THOMPSON #1		11.0	CHASE EXPLOATION	
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-JERICHO EXPLORATION INC	8425765 26819	3501700000	102-4 BEHNETT #3		0.0	EASON OIL CO	
-KIRKPATRICK OIL CO	8425758 26882	3507323891	RECEIVED: 03/21/84 JA: OK				
-L P ENERGY	8425795 10705	3507322793	103 BOYD #2	NE/4 NE/4 SECTION 1 T	0.0		
-LOMA OIL CORP	8425797 12093	3503700000	RECEIVED: 03/21/84 JA: OK				
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-MARTIN RALPH SKIP & MICHAEL L	8425782 24937	3514300000	103 HAYMAKER #1	SOONER TREND	36.5	EXXON CO USA	
-MCCOON CO INC	8425800 13330	3507100000	RECEIVED: 03/21/84 JA: OK				
8425799 13329		3507121551	103 RECORD #1	PICKETT PRAIRIE	0.0	PHILLIPS PETRODEUM	
8425798 13328		3507100000	103 DENNIS #2	BYNG	9.9	ARKANSAS LOUISIAN	
-MILLER EXPLORATION CO	8425790 19911	3508100000	RECEIVED: 03/21/84 JA: OK				
-MURCHISON EXPLORATION CO	8425756 26889	3506321891	103 CARRIE #1	VERA POOL	21.9	DIAMOND 'S' GAS S	
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-OLUSTEE OIL & GAS	8425789 21473	3512321408	102-2 BLAKEY #1		30.0	CHASE GAS CORP	
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8425791 19495		3513900377	103 RECTOR #3		0.0	MERIDIAN ENERGY I	
-SUN EXPLORATION & PRODUCTION CO	8425763 26849	3509300000	RECEIVED: 03/21/84 JA: OK				
8425759 26855		3509300000	103 CALVERT #1 API #0832227	WEST CALVIN	0.0	TRANSOK INC	
8425761 26852		3509300000	RECEIVED: 03/21/84 JA: OK				
8425760 26853		3509300000	108-PB LEAVENGOOD B #2		20.0	LONE STAR GAS CO	
8425762 26851		3509300000	108-ER NICHMAN B #1	ALLEN DISTRICT	0.0	ARKANSAS LOUISIAN	
-TEX-OK PETROLEUM INC	8425784 24917	3504500000	RECEIVED: 03/21/84 JA: OK				
-TEXAS INTERNATIONAL PETROLEUM CORP	8425785 24586	3504321676	108-ER TADOREK A #1	S E GUTHRIE	0.4	BUCKEYE NATURAL G	
-UNITED OIL CORP	8425768 25066	3504521126	RECEIVED: 03/21/84 JA: OK				
-WARD PETROLEUM CORP	8425757 26891	3505121441	108-PB CRAIG #1-6	SOONER TREND	16.1	TRANSOK PIPELINE	
*****			108-PB ELMORE #1	NW RICHLAND	12.0	OKLAHOMA GAS & EL	
VIRGINIA DEPARTMENT OF LABOR & INDUSTRY			RECEIVED: 03/21/84 JA: OK		15.6	OKLAHOMA GAS & EL	

-ASHLAND EXPLORATION INC	8425753	4502700000	108-SA LON B ROGERS #4 - 022400	CAPLE	16.0	NORTHERN NATURAL	
*****				EAST HOOKER	21.5	NORTHERN NATURAL	
** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ROSWELL, NM							

-AMOCO PRODUCTION CO	8425752 RNM 0236-83	3001524283	RECEIVED: 03/20/84 JA: NM L	RINGWOOD (MANNING)	0.3	RINGWOOD GATHERIN	
-GETTY OIL COMPANY	8425747 RNM 0224-83	3002528096	102-2 CIMARRON RB FEDERAL GAS COM #1	RINGWOOD (MANNING)	4.0	RINGWOOD GATHERIN	
-HESA PETROLEUM CO	8425745 RNM 0235-83	3000561950	RECEIVED: 03/20/84 JA: NM L	RINGWOOD (MANNING)	16.0	RINGWOOD GATHERIN	
8425746 RNM 0004-84		3000561913	102-2 FEDERAL 15 COM "B" WELL #1	RINGWOOD (MANNING)	1.0	RINGWOOD GATHERIN	
-YATES PETROLEUM CORPORATION	8425749 RNM 0050-84	3000562062	RECEIVED: 03/20/84 JA: NM L	RINGWOOD (MANNING)	3.0	RINGWOOD GATHERIN	
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-YATES PETROLEUM CORPORATION	8425754 RNM 0362-83	3000562059	RECEIVED: 03/21/84 JA: NM L				
*****			102-2 107-TF MOUNTAIN "VR" FED #3				
** DEPT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES, CA			RECEIVED: 03/21/84 JA: NM L				

-UNION OIL COMPANY OF CALIF	8425742 OCS-P 2-84	0431120566	102-5 SHORT "RM" FED #3	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE	

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*****				CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING	

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H.J. Res. 271 / Pub. L. 98-251

Designating February 11, 1984, "National Inventors' Day". (Apr. 6, 1984; 98 Stat. 120) Price: \$1.50

H.J. Res. 443 / Pub. L. 98-252

Designating the month of June 1984 as "Student Awareness of Drunk Driving Month". (Apr. 6, 1984; 98 Stat. 121) Price: \$1.50

S. 1365 / Pub. L. 98-253

Entitled the "Harry Porter Control Tower". (Apr. 6, 1984; 98 Stat. 122) Price: \$1.50

S.J. Res. 203 / Pub. L. 98-254

Designating the week beginning April 8, 1984, as "National Mental Health Counselors Week". (Apr. 9, 1984; 98 Stat. 123) Price: \$1.50

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